

THE PRESS STANDARDS BOARD OF FINANCE LIMITED

## Editors' Code of Practice Committee

### Agenda

Editors' Code of Practice Committee meeting

NS/NPA offices, 8<sup>th</sup> Floor, St Andrew's House,  
18-20 St Andrew's Street London EC4 3AY  
10.30 a.m., Thursday, 15 April 2010

1. Apologies: Ian Murray
2. New members: Damian Bates, *Aberdeen Evening Express* (SNS); Colin Grant, *Cambridge Newspapers* (NS); Mike Sassi, *Staffordshire Sentinel News and Media* (NS); TBC: NPA new members
3. Minutes of Thursday, November 26, 2009 (circulated).
4. Matters arising (*if not dealt with below*):
5. Code Committee website
6. Bribery Bill
7. Codebook update
8. DCMS Select committee (\*See also Appendix A for background)
9. PCC Governance Review (\*See also Appendix B and Item 10)
10. Suggested procedural changes
11. Annual Code Review (\*Appendix B)
12. Other business
13. Next meeting

*\*Note: The combination of Select Committee Report, Governance Review and annual Code Review has led to an unusually heavy and overlapping agenda. To save time, proposals from each source have been included for discussion in Item 10, Procedural Changes, or in Item 11, the Code Review, as appropriate.*

Appendix A (*separate pdf*): Background briefing on Select Committee proposals

Appendix B (*integrated as item 11*): Annual Code Review

Appendix C (*separate pdf*): The Code in A4 format for easy

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reference.

Agenda items:

5. **Code Committee website:** The website continues to build, with more than 250,000 hits from April 2009 to March 2010 inclusive (*against 106,000 hits in 2008*). Hits in March 2010 alone almost equalled the figure for the first quarter of 2009. The number of pages viewed - a more reliable measure of usage - confirms the trend. In the first quarter of 2010, 18,569 pages were viewed, as against 7,818 in January-March 2009 - a 137% increase.

However, this is from a low base. Until recently, with fewer than 50 subscribers, we relied on the PCC to post Code announcements. To avoid this, PCC subscribers were offered automatic subscription to *Editorscode.org*, unless they objected. Our site now has 2,000-plus subscribers.

6. **Bribery Bill:** (for report): There are concerns that the Bill might pose serious hazards not only for journalists and publishers but also for legitimate informants, such as whistle-blowers. In theory, the sort of activities that expose journalists under RIPA or DPA might, if payment was involved, equally be construed as bribery. If so, this Bill provides an additional - and more Draconian - route for prose-cutting journalists who pay informants for 'improper' disclosure. For example, it:

- Offers no proper definition of bribery, thus making its potential remit alarmingly wide.
- Allows no public interest or other defence, apart from uncertain and difficult to argue HRA provisions.
- Carries a maximum 10-year sentence, compared with two years under RIPA and, as proposed, DPA.

The best option would be to incorporate into the Bill a public interest defence and a proper definition of bribery (which itself would make clear situations - such as the existence of an *over-riding public interest*, or for *genuine and legitimate journalistic purposes* - where otherwise illicit payments might be justified). Failing that, it might be possible to seek a concordat - as with the Human Rights Act - obliging the DPP to take account of a *relevant industry Code* before deciding to prosecute journalists. The Code would then need to be amended to take account of that. Secretary to update.

7. **Online Codebook update:** The original plan to produce drafts of suggested updates to *The Editors' Codebook Online* for discussion at this meeting has been postponed because of the exceptionally heavy agenda. The secretary suggests that, to rebalance the bi-annual agendas, Codebook drafts should in future be routinely scheduled for the autumn, allowing the spring meeting to concentrate on the Code Review.

As requested by the committee, the secretary redrafted Alan Rusbridger's suggested checklist of questions on *judging the public interest when intruding into someone's privacy*. See below (with original AR suggestions at 3 & 4).

**Five questions an editor should ask in deciding whether or not there is a public interest in intruding into someone's privacy for journalistic reasons**

1. Is it reasonable to believe *the story* is in the public interest? If not, no breach can be justified.
2. Is *intrusion necessary* in the public interest? If the information can be *obtained by other means*, involving less or no intrusion, there would be a breach.
3. Is there a reasonable prospect of success? Fishing expeditions are not permitted.
4. Is the intrusion *proportionate* to the seriousness of the story and its potential for serving the public interest? If not, there could be a breach.

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5. Could the public interest have been fully served while publishing less intrusive detail?

**Original AR suggestions:** 1. There must be sufficient *cause* - the intrusion needs to be justified by the scale of potential harm which might result from it. 2. There must be *integrity of motive* - the intrusion must be justified in terms of the public good which would follow from publication. 3. The methods used must be *in proportion* to the seriousness of the story and its public interest, using the minimum possible intrusion. 4. There must be *proper authority* - any intrusion must be authorised at a sufficiently senior level and with appropriate oversight. 5. There must be a *reasonable prospect of success*: fishing expeditions are not justified.

The draft includes two Rusbridger questions - his Q3 and Q5, but in different sequence - and avoids subjective concepts, such as *integrity of motive* and *the public good*, and concentrates on *proportionality*. Arguably, Q5 is a variation on Q4 and may be optional. It seems sensible that any guidance should apply not just to privacy but to all clauses covering intrusion - such as Harassment, protection of Children, the use of Clandestine Devices and subterfuge - and appear in the Public Interest section, cross-referenced from other relevant sections. The update, with any amendments agreed by the committee, could be included in the Codebook in the autumn.

8. **Select Committee:** A fuller Briefing on the Select Committee's comments on self-regulation is in Appendix A as background. Meanwhile, issues raised directly concerning the Code and *The Editors' Codebook* have been incorporated into the Code Review (Appendix B). They include: Prior notification to comment on stories; specific inclusion of headlines; and advanced agreement on positioning of corrections and apologies.

Wider constitutional matters raised by the Select Committee - such as introducing lay and non-editor membership of the Code Committee and proactive monitoring of websites - are remit issues for PressBoF. However, those particularly affecting the Code Committee are included for discussion in Item 10 below, so that the Code Committee's views can be passed to PressBoF and, where appropriate, to the Select Committee.

**IB Note:** The PCC and PressBoF are formally responding to the Select Committee. It would make sense for the Code Committee to do so on issues specific to the Code and Codebook. We would normally include our reasons for rejecting the MPs' suggestions. If the committee wishes, the secretary will draft a response to be circulated to members by email for comments and agreement, timed to be submitted before May.

9. **PCC Governance Review:** Although the Code Committee is outside the Review's remit, external submissions to it often include proposals that affect the Code, directly or indirectly. The Review committee has yet to reach any conclusions, but is understood to be investigating issues such as greater transparency, toughening existing sanctions and introducing appeals. There are also requests to clarify the relationship between the PCC Board and the Code Committee.

As with CMS Committee proposals, any issues raised in external submissions that affect the Code, or other matters raised informally by the Governance Review, have been included in either the Code Review or Item 10 Changes. The Code Committee views will then be fed back into the Governance Review process, as appropriate.

10. **Suggested Procedural changes:** To avoid overlap, constitutional or other procedural issues raised in either the Select Committee report or by the Governance Review process - or both - have been grouped here. Remit issues reserved for PressBoF are marked with an asterisk, but the committee's views will be welcome.

**\*Membership:** CMS SELECT COMMITTEE suggests that, as well as editors, the Code Committee should comprise lay members, with a lay chairman, and 'practising journalists'. [See Appendix A]. There are variations on this theme in evidence to the Governance Review. MADELEINE MOON MP supports

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lay members. The CAMPAIGN FOR PRESS AND BROADCASTING FREEDOM wants a Code Committee composed primarily of highly experienced senior journalists with editors in the minority. THE NUJ wants its members represented. In a novel twist, the MEDIA STANDARDS TRUST says current editors should not serve on the PCC. There appears to be some support on the Governance Review panel for lay members - but not a lay chairman - on the Code Committee.

IB note: Industry ownership of the Code is customary in self-regulatory systems. Since 1990, the Editors' Code has derived much of its authority within the industry from the fact that it is written by the editors ultimately responsible for implementing it. Any concession on lay representation now is likely to whet the appetite for more later. The cases made for lay members and for 'practising journalists' should be viewed separately.

LAY MEMBERS: Critics of self-regulation seek lay representation in the name of transparency and accountability. But any presentational advantages would have to be weighed against the operational disadvantages:

- Introducing a lay chairman could damage industry confidence in the Code - and compliance with it - which would affect public credibility (as with old Press Council).
- Arguably, one or two lay members might not harm the Code's industry authority and - if taken together with the PCC Chairman and Director - could represent a significant lay presence, thus improving its public credibility.
- An option could be for, say, two PCC lay commissioners to be co-opted onto the Code Committee, which some of them would eagerly support. However, this would be likely to be resisted by the Governance Review panel as suggesting a lack of separation.
- It would probably be more tenable to have lay members without a PCC background. The downside is that introducing a small lay membership would be criticised as tokenism, inevitably leading to pressure for a higher ratio of lay members.
- Some of this might be countered by altering the observer status of the PCC Chairman and Director to fully participating membership (reflecting the reality). However, new nomenclature may be needed to avoid creating the false impression that the PCC Chairman and Director were subordinate to an Industry Chairman.

'PRACTISING JOURNALIST' MEMBERS: Conceding lay membership would fuel demands for non-editor industry members, diminishing the Code's authority and creating an unwieldy forum, with no benefits in terms of public credibility: editors are 'practising journalists.' It could also signal a return to the sort of toxic politicisation that plagued the Press Council.

\* Monitoring websites: The CMS SELECT COMMITTEE suggests the Press should check websites to remove offensive comments on stories - such as sick and obscene remarks on suicides - even without prior complaints. Also, the Codebook should emphasise editors' responsibility to moderate websites. The PCC should proactively monitor compliance by periodic sampling.

IB note: This is aimed principally at local paper websites, which are largely unmoderated due to lack of resources. The Codebook could give guidance on the desirability of moderating websites, perhaps by random internal checks, but it might raise false expectations: compliance could impose an obligation that local newspapers would find difficult to meet. Some sites already prevent the posting of messages on particularly sensitive stories, such as suicides, by disabling the comment function. However, if that option also precludes posting positive tributes, it is unlikely to appeal to

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local papers. Requiring the PCC to monitor compliance proactively would also be a dangerous departure: random sampling could be unfair, unrepresentative - and expensive in terms of staff time.

\* **Adverse adjudications:** in evidence to the Governance Review, PETER PRESTON suggests that, to improve public perceptions that self-regulation inflicts real pain on transgressors, the PCC should dictate the length and position of adverse adjudications. The Review committee, while accepting that this is outside its remit, has raised the issue informally. MEDIAWISE also calls for obligatory Page 1 cross-references to adverse adjudications.

IB note: The Preston submission is - despite its call for Code compliance to be written into staff contracts and for serial offenders to be Red Carded - strongly pro-PCC. Beefing up existing sanctions is proposed as a way to help stave off the 'foolish' clamour for fines.

As the PCC already determines the length of adjudications, the question is: should it dictate location? This is already often done informally via the PCC secretariat's non-binding advice to editors on 'due prominence'. (A proposal to codify this for Corrections and Apologies is included in the Code Review - paras 12-17). However, codification would mean the PCC Board, not the secretariat, approves positioning. This raises other issues - for example, would a page be specified, or a range of pages? Would the display format also be fixed? Whatever the presentational advantages, these could constitute radical challenges for a system reliant on voluntary compliance.

\* **Online media convergence:** THE NUJ, MEDIAWISE, CAMPAIGN FOR PRESS AND BROADCASTING FREEDOM AND OTHERS argue that as online press sites and broadcasting websites run side by side, standards should reflect convergence, so that Ofcom issues - such as impartiality and balance, avoidance of harm and offence (taste and decency) and discrimination against groups - are included in the Editors' Code.

IB note: This notion assumes the regulations that operate in a licensed environment such as broadcasting, where there is restricted entry due to lack of bandwidth etc, should apply in an unlicensed area where there is freedom of entry and diversity. Media convergence does not mean uniformity, and if it did it would surely mean conforming to greater freedom, not less.

\* **Transparency:** A recurring theme in submissions to the Code Committee, the Governance Review and elsewhere is that there should be greater transparency throughout the self-regulatory system. While the annual Code Review is welcomed as a form of public participation in the process, there is criticism that meetings are held in private, without published minutes and that no reasons are published for the committee's decisions.

IB note: The Code Committee is less opaque than critics claim, as the existence of the Code Review, the Codebook and the Editorscode.org.uk site demonstrates. Reasons for Code changes are published on the website and via press releases. While we don't publish reasons for rejecting changes, each proposer gets an explanatory letter, which they are free to publish.

That said, there are a great many misconceptions about the Code Committee, some of which are our fault. The Editors' Code, for example, is almost universally - and confusingly - referred to as the 'PCC Code'. Problems arise from lack of promotional resource. The website and the Codebook (which the CMS Committee assumes to be a PCC promotion) address many mis-understandings, but are not widely known or well enough read. Of course, we can do more:

- We could, if proposers agreed, publish all Code Review suggestions and reasons for rejection or (less often) for acceptance. But it

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might look rather negative: to ensure consistency and certainty, we try to keep Code changes to a minimum.

- We could include the website FAQs in the Codebook, especially in its hard copy format.
- Publishing Committee Minutes is problematic: it risks either stifling debate (would we wish to publish this?) or publishing minimalist notes of little use to those seeking the rationale for past decisions. PressBoF would need to approve any such changes.

Relations with the PCC: Among those unclear about the Code Committee is the PCC Board itself, which has voiced uncertainty over where the two bodies intersect. Lay commissioners are unsure of their role in influencing formulation of the Code and what the act of ratification implies.

IB note: While the Code Committee has always operated at arm's length from the Board to preserve the PCC's independence, it is worrying that a gulf of understanding has developed. There is a clear need for more guidance for lay members on the philosophy and mechanics of self-regulation. The Code Committee could play its part in this. Possible action:

- Clarifying the unwritten relationship between the PCC and the Code Committee.
- Greater interface between the Code Committee and the PCC Board, via the secretary attending PCC internal briefing and update sessions - such as away days.
- Formalising the liaison role of the PCC Chairman and Director so that they brief Board members on Code developments and brief the Code Committee on the PCC.

\* A wider role for the Code Committee: The Governance Review is concerned that the burden of supporting and defending the self-regulatory system is falling disproportionately on the PCC, rather than the industry, which maintains a low profile. The industry's failure to field spokesmen to counter public and political criticism is cited as an example, along with the difficulty in recruiting national daily editors to serve on the PCC. The Governance Review suggests the Code Committee might take on a wider role in focusing industry commitment.

IB note: The Code Committee was set up specifically to write, review and revise the Code. Any wider role would have to be designated and approved by PressBoF.

11. Annual Code Review: The review is separately numbered in Appendix B.  
**APPENDIX B**

Code Review 2010

*The secretary's notes are for guidance only*

**ACCURACY**

Clause 1i - Prior notice

*From the CMS Select Committee and Schillings, solicitors and others*

1. The SELECT COMMITTEE suggests the Code should state that journalists should normally notify subjects of articles ahead of publication, unless that was against the public interest, and that the Codebook should include guidance on this.

2. SCHILLINGS' proposal requiring prior notification of an intention to publish serious allegations was rejected last year. Now the firm proposes the test should be whether a serious breach of Article 8 of the Human Rights Act (right to reputation) is involved. It claims the amendment reflects the House of Lords' Reynolds judgment, ECHR media decisions and PCC policy in the Paul Burrell case. It should be codified to assist complainants unfamiliar with PCC case-law.

Schillings' proposal: Clause 1:

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i) The Press must take care not to publish inaccurate, misleading or distorted information, including pictures. The obligation to take care includes, where there is an intention to publish allegations which involve a serious breach of a party's (or parties') Article 8 rights (including the right to reputation), that an opportunity given to that party (or those parties) to reply to the allegations prior to publication and the substance of any response(s) given be included within the story.

3. IB note: The Code Committee agreed last year that prior notification was desirable but should not be obligatory - largely due to the risk of newspapers being injuncted. The PCC later clarified the Burrell adjudication, cited by Schillings, declaring: 'There cannot be an absolute requirement ... to contact the subject of stories prior to publication. However, a failure to include all relevant sides of the story can, if left unremedied, sometimes lead to a breach...'
4. We are already committed to improving the Codebook guidance on this and we could simply leave it at that. But if we wanted to amend the Code, some possible options are listed below.

Option A: li The Press must take care not to publish inaccurate, misleading or distorted information, including pictures. Subjects should normally have prior opportunity to comment on serious allegations made against them.

Option B: li ... should normally have prior opportunity to comment on serious allegations made against them.

Option C: li ... pictures. Subjects should have a fair opportunity to comment on serious allegations against them.

5. Option A reflects the CMS Committee's qualification normally, but raises the threshold so that the obligation applies only to serious allegations. Even so, it could restrict celebrity journalism, where prior notice is less routine. Option B drops the prior requirement. Option C's fair opportunity to comment lets the PCC decide what is fair. But B/C are less likely to mollify critics.

Clause 1i - Headlines

From the Select Committee, Online petitioners, and others

6. The CMS COMMITTEE says misleading headlines can cause harm and are poor journalism. The Code should include a clause making clear that headlines must accurately reflect the content of the articles they accompany. ONLINE PETITIONERS suggest headlines should be covered by the same rules as the rest of the story and that titles for links should never be misleading in what they imply or offer and should always be substantiated by the article/contents. Ms ISOBEL JONES complains that headlines referring to alleged 'health cures' routinely overstate the evidence.

7. IB note: Headlines on health cures or any other subject are integral to stories and, under the spirit of the Code, are already covered by Clause 1i. This is clear from PCC decisions highlighted in the Codebook (the CMS Committee's claim that there is only one such reference is itself inaccurate!). However, specific mention of headlines in the Code raises the risk of them being judged in isolation, rather than in the context of the whole story. This could, for example, curb witty or metaphoric headlines that, while not literally true, express vividly the essence of a story.

8. Whether or not the Code is changed, we could improve the Codebook guidance, perhaps by creating a panel giving examples of misleading headlines - although there aren't many relevant adjudications to call upon. Also, the Code Committee website FAQs could add the question: Does the Code cover headlines? The Committee may consider these measures sufficient, but if a simple amendment were thought desirable, Clause 1i could be changed to say:

i) The Press must take care not to publish inaccurate, misleading or distorted information, including in pictures. Headlines should accurately reflect the essence of the article.

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Or: Headlines should accurately reflect the essence of the article

9. If either Option A or B in para 3 above were adopted, the headline rule would then follow that, unless the committee wished to add new sub-clauses, covering each amendment.

Clause 1i - Manipulation of pictures, low threshold of accuracy, and right of reply

From MediaWise and the NUJ, via the Governance review

10. MEDIAWISE says the Code has no specific photography clause (see General Issues below) and should give guidance on when and how digitally manipulated images should be used and identified as such, especially for hard news stories. It also urges that complainants should be offered a Right of reply in this sub-clause (see para 18). THE NUJ claims the Code's requirement for the Press to take care not to publish inaccurate material is very weak and a low hurdle.

11. IB note: The inclusion of pictures in Clause 1i is intended to cover digital manipulation and this is stated in the website's FAQs. Although the Codebook makes this clear, it may be possible to expand its guidance, but there are relatively few adjudications on abuse of digital images. This could be a presentational issue that might be addressed by a Codebook panel on photography (see paras 33-34). The NUJ's claim of a low hurdle for accuracy is not supported by evidence, and has not appeared to be an issue over the last 20 years. Recommend: No change.

Clause 1ii - Due prominence

From CMS Select Cttee, Online petitioners, MediaWise, Swan Turton, and others

12. The SELECT COMMITTEE says corrections and apologies should appear on the same page, or earlier, as the original reference, although they need not be the same size. It suggests the Code should require editors to give the PCC advance notice of the proposed size and location and, if the due prominence requirement is not met, that should be stated in the correction or apology.

13. ONLINE PETITIONERS similarly call for retractions, corrections and apologies in print and online to be normally at least equally as prominent as the original article, other than in exceptional circumstances, which the publication would have to demonstrate. Online, such statements should be displayed either at the original URL or at a URL to which the reader is redirected.

14. SWAN TURTON urges prominence to be at least the same as the offending article or that part of the offending article which is inaccurate, if it is only inaccurate in part. MEDIAWISE seeks written agreement with complainants on wording of corrections/apologies; proper tagging of them in cuttings and digital records; and asks the PCC to seek editors' agreement on establishing Correction and Apologies columns and on giving at least equal prominence to corrections, where the original headline and article were substantial.

15. IB note: In cases involving the PCC, much of what has been suggested happens already. The Commission monitors 'due prominence' - and finds that 85% of corrections appear on the same page or earlier. Prominence is frequently discussed with editors ahead of publication. As Code Committee policy has been to allow the PCC sole discretion on what is 'due prominence', any change along the lines suggested would have to be codified. On URLs/tagging of corrections on files, it might be useful to ask the PCC to investigate whether this is indeed an issue.

16. Prior agreement on positioning might solve most due prominence issues listed above, while still allowing editors some room for

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negotiation. So if there is to be any concession, then codifying that 'advance agreement' might be the best option. The Code might 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 /{and complainant?}/ in advance.

17. This, or a variant, could work in most cases involving the PCC, as it largely reflects current practice and continues to allow the Commission to define due prominence according to the circumstances. A weakness is that it does not define prominence in cases that do not get that far. But if complainants wish to settle without recourse to the PCC, that must be their choice.

OPPORTUNITY TO REPLY

Clause 2 - Right of reply

From MediaWise and Mr [redacted]

18. Although the Code offers a fair opportunity to reply to inaccuracies when reasonably called for, MEDIAWISE wants the PCC to be able to insist that newspapers offer an appropriate Right of Reply to genuinely aggrieved parties. It would be a chance to present, unmediated, their side of the story or point of view when the public has been given an inaccurate version. [redacted] seeks a right of reply and obligatory space for readers' complaints.

19. IB note: The Code Committee's view has always been that an unqualified Right of Reply raises expectations of an absolute entitlement unsuited to a system built on conciliation. Also, MediaWise appears to offer a Reply that embraces not just inaccuracies, but different points of view. It is a confused and confusing concept: apparently simultaneously appropriate, and yet unmediated. Who then would decide what was appropriate? [redacted] obligatory space for presumably unmoderated complaints seems a novel route to anarchy. Recommend: No change.

PRIVACY

Clause 3 - informed consent and distorted rulings

From MediaWise and the NUJ

20. MEDIAWISE claims the test of a reasonable expectation of privacy favours the wealthy, who hide behind high walls, over people whose home is exposed to the public gaze. The organisation also calls for 'informed consent' - sometimes including final copy checks for accuracy - for people who are not media savvy and who might otherwise be duped into giving or selling their stories against their own best interests. THE NUJ says the Code's privacy clause has very specific wording and that there is evidence that this is distorting the Commission's rulings.

21. IB note: A reasonable expectation of privacy allows for the fact that a private citizen's view of what was reasonable would often be very different from that which VIPs or celebrities should expect. And the PCC's test of whether the subject is engaged in a private activity at the time, applies to rich and poor alike. The concept of informed consent would be difficult to codify, especially where financial transactions are involved. The PCC has offered guidance - published in the Codebook - requiring journalists to take special care when dealing with contacts unversed in media matters. It is unclear whether MediaWise knows that, or merely thinks it is not enough. The NUJ suggestion that the privacy clause is distorting PCC rulings is surprising. No supporting evidence has been offered and the PCC secretariat is unaware of any. Recommend: No change.

DISCRIMINATION

Clause 12 - inclusion of groups and allowing third party complaints

From the National Aids Trust, the Building and Social Housing

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Foundation, West London Mental Health Trust and others, including - in evidence to the Governance review - MediaWise, Campaign for Press and Broadcasting Freedom, and NUJ

22. The NATIONAL AIDS TRUST urges that Clause 12 be changed to allow complaints from any source to be accepted on the grounds that use of prejudicial or pejorative discriminatory terms has wider ramifications than those just for the individual. The trust cites headlines such as *Evil HIV Beast*, *HIV Monster* and *HIV Rat* as examples of how linking a medical condition to such terms reflects on all people living with HIV.

23. The Trust says third party complaints should be allowed because it is not always possible for individuals to pursue cases of discrimination - i.e. where they have been deported, are in prison - or have committed suicide.

24. THE BUILDING AND SOCIAL HOUSING FOUNDATION, representing gypsies and travellers, makes similar points in favour of changing the code to cover vilified groups. WEST LONDON MENTAL HEALTH TRUST sought a change to Clause 4 to allow complaints against mental and emotional harassment of vulnerable people. It seems more logical to include it here, as the main concern was that Broadmoor patients were being stigmatized as sub-human (in headlines such as *The Beastly Boys*), which affected their recovery and may have contributed to a case of suicide. Other submissions made similar points. MEDIAWISE, for example, says unreliable stories about particular social groups can engender prejudice and even influence public policy, but 'class action' complaints on behalf of minority groups are excluded by the Editors' Code.

25. IB note: Discrimination against groups is the Code's most contentious issue. It has always been resisted on the basis that, while pejorative or prejudicial remarks about individuals are not acceptable, a similar bar on groups would be an infringement of free speech. Comments about U.S. war-mongering could be caught along with stereotypical remarks about Muslim isolationism, and jokes about German tourists' dawn raids with beach towels to nab hotel sun-loungers.

26. MediaWise is wrong. Third parties can complain about inaccurate and unreliable stories about social groups under Clause 1's Accuracy provisions. (Without a complaint from Andrew Cowles, the PCC would have adjudicated on Jan Moir's piece on Stephen Gateley on this basis.)

27. A recent survey of 20 European press self-regulatory systems shows that only four - Cyprus, the Netherlands, Kosovo and Ireland - cover discrimination to groups. Ireland's code embraces incitement to hatred to reflect Irish law and - despite the Ombudsman claiming a light touch on this - one comment piece was judged to cause grave offence because of its homophobic tone.

28. Even if the UK Code embraced groups, it is debatable whether actual outcomes would change. Under the spirit of the Code, set out in the Preamble, the PCC could - and most probably would - judge a case in the context of having regard for freedom of expression (as with Jan Moir). But the Irish experience suggests it's not worth the gamble. Recommend: No change.

CONFIDENTIAL SOURCES

Clause 14 - Crediting sources

From Online petitioners and

29. ONLINE PETITIONERS suggest all sources should be automatically credited, unless they do not wish to be, or unless they deserve anonymity or protection.  the campaigner whose FoI request first exposed MPs' expenses, believes there should be a presumption - on the U.S. model - that official spokesmen are routinely named, to make them accountable.

30. IB note: The Code enshrines the journalistic tradition of protecting confidential sources. However, it would be against the Code tradition to try to put editors in a straitjacket by insisting all other sources are named, and it would be impossible to police. Whatever the

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virtues of naming official spokesmen, it is properly a matter for editorial choice. Recommend: No change.

GENERAL ISSUES

ADVOCATING ILLEGALITY - from [ ]

31. [ ] alarmed by a Bruce Anderson comment piece in *The Independent* saying security agencies had a duty to use torture to protect society from terrorists, could not complain to the PCC as the Code does not cover advocating illegal acts. He suggests a new clause:

Illegality: Freedom of expression is clearly in the public interest, but it is not an absolute right. Amongst other things, it must be balanced against the need to uphold the rule of law. Whilst journalists are free to criticise existing laws and to call for their repeal, they must not advocate the breaking of existing laws, encourage others to break such laws or in any way assist in the breaking of such laws.

32. IB note: If it was against the public interest for the law to prosecute in such cases, then it would be against the public interest to prevent the debate. Recommend: No change.

PHOTOGRAPHY - from *MediaWise*

33. In evidence to the Governance review, *MediaWise* says there is no specific clause on photography and calls on the Code Committee to turn its attention to 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.

34. IB note: The Code refers to pictures, images and photography in the relevant clauses - covering Accuracy, Privacy, Harassment, Children, and the use of Clandestine devices and subterfuge. The Codebook also mentions them in other areas - such as photography at funerals and in hospitals and in reporting of crime. There may be a case for introducing into the Codebook a panel on photography/image use as a Briefing for photographers and picture desks. However, the Code's remit does not cover financial transactions with suppliers of pictures, including citizen journalists. Recommend: Change to Codebook

EDITORIAL BALANCE - from the *Park Homes Residents Action Alliance*

35. The Alliance says Park Home magazines and newspaper editorial features mislead elderly purchasers by regularly making false price comparisons with traditionally-built freehold houses, which do not routinely depreciate with age. The Alliance had no success with its complaints to the PCC that the magazines - which rely on the park home industry for advertising - persistently refuse to allow these claims to be challenged or clarified. It wants the Code to rectify this.

36. IB note: An editorial inaccuracy would be covered by the Code. However the issue here is whether paying - say - £100,000 for a park home, which has no land and will ultimately rot, can reasonably be expressed in editorial terms as a saving of £35,000 against buying a similarly sized freehold bungalow. That is a decision for the PCC, if not the ASA. Recommend: No change.

BIASED COURT REPORTING AND NAMING AND SHAMING - from [ ] and [ ]

37. [ ] suggests newspapers become the publicity tools of the police when reports of ongoing trials fail to give both sides; are biased in favour of the prosecution's opening address; do not make clear that these are allegations; fail to give the defence case; and do not state that a case is ongoing.

38. [ ] died in jail while serving a sentence for sexually assaulting two girls and having arranged the firebombing of his own home

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to gain public sympathy. [ ] maintains his innocence and has set up a support organisation to help people 'falsely accused'. She wants the Code to require even-handed reporting of sex abuse cases, without making false allegations, or inciting vigilantism with lurid headlines in naming-and-shaming campaigns.

39. IB note: Court reports lose privileged status if not fair and accurate, which could expose editors to legal sanctions. The PCC has adjudicated against newspapers for poor reporting of trials. Recommend: No change

Item 12: Any other business.

13. Next meeting