

THE PRESS STANDARDS BOARD OF FINANCE LIMITED

Editors' Code of Practice Committee

Agenda

Editors' Code of Practice Committee meeting

NS/NPA offices, 8th Floor, St Andrew's House,
18-20 St Andrew Street London EC4 3AY
10.30 a.m., Thursday, 24 March 2011

1. Apologies: June Smith-Sheppard (resignation); Neil Benson
2. Minutes of Thursday, 21 October 2010 (circulated).
3. Matters arising (if not dealt with below):
4. Code Committee website update
5. Phone hacking
6. Defamation of the dead - Scotland
7. Online journalism developments
8. ATVOD
9. 2011 Code Review (Appendices A and B)
10. Other business
11. Next meeting

Appendix A (incorporated) Code Review suggestions

Appendix B (separate folder): Code Review background documents

Appendix C (separate pdf): Online working party's Twitter proposals

Appendix D (separate pdf): The Code in A4 format for easy reference.

Agenda items:

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4. **Code Committee website:** There were 273,595 hits from April 2010 to mid-March 2011 inclusive - up a little on the previous 12 months. The number of pages viewed, a more reliable measure of usage, had a huge boost in January, following publication of the revised online edition of *The Editors' Codebook*.

5. **Phone hacking:** There appears little room for manoeuvre while the endgame remains unclear. Despite Andy Coulson's resignation and the sacking of Ian Edmondson, specific new evidence is sparse and premature Code Committee action might pre-empt both Scotland Yard's renewed inquiry and the PCC's internal review of the case. The committee's position remains that the Code - which already covered phone hacking - has also been strengthened in the wake of this case.

However, it is open to the committee to consider whether there might be a future case for action on presentational grounds, to ease public disquiet. If so, it would need to identify the most effective course and how it might be co-ordinated with the PCC, whose review will not report until the police investigation is concluded. Possible options include:

- Introducing a separate, stand-alone clause on phone-hacking and similar data protection issues to stress their importance.
- Making a pronouncement - via a public statement or, perhaps, *The Editors' Codebook* - underlining that the Code prohibits the practice, unless it is in the wider public interest.
- Or a combination of the two, in conjunction with any PCC response.

6. **Defamation of the Dead:** The Scottish Parliament has launched a public consultation, closing on April 4, on the desirability of enacting a new law to cover defamation of the dead. It would, of course, affect not only Scottish media but all UK publications circulating in Scotland. The Code Committee has been invited to contribute as Clause 1 already provides a non-legalistic remedy for inaccurate, distorted or misleading statements about people, dead or alive.

UK legal convention has been that reputation is personal and dies with the holder. The Scottish initiative explores whether close relatives of a recently deceased person should be able to protect that reputation for a limited period. Although legislatures in Australia, New Zealand, Ireland and Canada have considered similar measures, none has actually passed into statute.

There is a strong media case against such law. Freedom of expression would be impacted by the extra legal risk's chilling effect on journalism and historical analysis of the dead person's life. Coverage of murder investigations could be inhibited where publication of theories about a victim's secret life might result in a civil action. Often, establishing the truth in such cases would be impossible, as the defamed person could not be cross-examined. Any remaining case for such a law is substantially weakened by the fact that the Editors' Code already provides an effective remedy. If it is the committee's wish, the secretary will prepare a submission.

7. **Online journalism developments:** The PCC guidance on the prominence of online corrections has already been circulated. Two encouraging responses were received, and no objections.

The Commission's online working party has also explored the practicalities of applying the Code to Twitter. Its early conclusions, upon which PressBoF is inviting the Code Committee's comments, are attached as *Appendix C*. Some key points:

- Publications should develop clear policies as to their relationship to specific social networking accounts, stating clearly which they take responsibility for and which they do not.
- Social networking accounts which include in their titles the name of a publication, and whose content is editorially controlled, should generally fall within the PCC remit.
- One model on appropriate take-down of material under complaint: Editors could be given the chance to respond to a concern about Twitter content marked as under their control. If they do not take action, they could be held liable by the PCC under the terms of the Code.

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- Personal accounts of journalists, *unless marked as under the publication's control*, would continue to fall outside the PCC remit, even if content relates to journalism and the journalist is identified.
- There will be a distinction between overall corporate policy (journalists being accountable to their employer for their public behaviour), and a policy of adherence to the Editors' Code (editors being accountable to the PCC for journalistic output on agreed accounts).

8. **ATVOD (for report):** The Association for TV on Demand, a regulator answerable to Ofcom, has been pressurising newspaper publishers operating TV-style channels online to sign up to its Code of Practice. The publishers are resisting this on the basis that ATVOD's rules should not apply to them and that it would force them into a co-regulatory system, ultimately under the statutory control of Ofcom, when they are already self-regulated via the PCC. However, questions may arise over whether the Editors' Code currently meets TV on Demand obligations, for example on protection of child viewers, and on avoiding incitement to racial hatred. The industry would need to decide if the Editors' Code could be amended to resolve this.

9. **Annual Code Review (See Appendix A following)**

10. **Other business**

11. **Date of next meeting**

Appendix A follows..

APPENDIX A

ANNUAL CODE REVIEW 2011

ACCURACY

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Clause 1 - 'Legal or expert' journalism

From Mr A, who asks not to be named because he claims to be the victim in a criminal fraud case where the suspect absconded and is still sought by police.

1. Mr A says a barrister writing on the Julian Assange case for the *Guardian* made inaccurate, mis-leading and distorted statements about extradition warrants. He suggests the Code should require greater expectation of accuracy from professionals - such as lawyers, accountants and even amateur rugby referees - writing for newspapers. He cites legal precedent that the public is entitled to expect greater knowledge from writers, whose professional qualifications are intended to add credibility to content.
2. He also suggests:
 - The Code should offer a "fair and equal" Opportunity to Reply (to avoid lawyers like Geoffrey Robertson getting a better hearing than Mr A himself was given);
 - *Intrusion into Grief* and *Reporting of Crime* clauses should be extended to cover offensive statements and issues of decency;
 - *Payments to Witnesses* and *Payments to Criminals* clauses should further prevent criminals benefiting from crime by depositing cash payments to likely defendants into escrow accounts pending a court verdict on guilt.
 - There should be a requirement for the press to signal conflicts of interest when reporting on important issues in a partisan way.
3. IB note: The notion that there should be two tiers of accuracy might appear odd to many people - especially if it meant an Editorial Code set lower thresholds for journalists than it demanded of lawyers, accountants and amateur referees. It is already open to the PCC, when deciding whether reasonable care was taken to avoid inaccuracy, to apply a 'reasonable knowledge' test to that. The other issues are fairly marginal, or - as with taste and decency - deliberately not covered by the Code. Having escrow trust funds for witness or criminal payments raises as many questions as it answers.

INTRUSION INTO GRIEF AND SHOCK

CLAUSE 5II - Suicide reporting

From Trinity Mirror Plc

4. Trinity Mirror Plc, via its legal department, suggests the second sentence qualifying clause 5i - "This should not restrict the right to report legal proceedings, such as inquests" - should also apply to clause 5ii, covering the reporting of suicide. It says:

"... we do not believe that the Editors' Code of Practice should take any steps (or continue to take any steps) to prevent the reporting of legal proceedings. The media fulfil the role in any democracy, in reporting such proceedings, of being 'the eyes and the ears of the public' and we believe that the Code should avoid taking steps to limit how the media fulfil that role, over and beyond the legal restrictions which already exist in respect of such reporting.

"Of course, in exercising that role newspapers can, voluntarily, decide to restrict the detail that they convey to their readers but there is a difference between them deciding to do that, and being found to be in breach of the Code if they don't do that. Indeed, I should stress that we are not asking for this change because we want to use excessive detail in the future in reporting inquests into suicides but rather because, as I say above, there is an important point of principle at stake here about avoiding derogations from the principle of open justice."

5. IB note: The rule on avoiding excessive detail in reporting suicide methods was introduced in 2006 following powerful evidence from the Samaritans on the risks of copycat suicides. The committee's view then was that this codified a practice already followed by many

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editors voluntarily, without compromising their right to report inquests. The change was widely acclaimed and has been used by the PCC to illustrate the strengths of self-regulation. Trinity Mirror's proposals speak for themselves but, whatever the principles involved, the Code Committee would need to be aware that any reversal could invite equally wide condemnation at a time when self-regulation is already under fire.

DISCRIMINATION:

Clause 12 - Drug addiction

From [redacted] Chair of the UK Drug Policy Commission

6. [redacted] wants the Code and associated guidance - notably *The Editors' Codebook* - strengthened to cover prejudicial and pejorative references to people recovering from drug dependency and addiction problems. UKDPC research on public attitudes suggests the social stigma of drug addiction creates barriers to recovery and that people with a history of drug dependence are often demonised in the media. She asks the Code Committee to:

- Clarify whether Clause 12 embraces prejudicial or pejorative references to individuals with substance abuse or addiction problems;
- Add Addictions to the list of discriminatory categories, or otherwise strengthen the Codebook guidance to specifically mention that addictions should be mentioned only when relevant;
- Dovetail that guidance with UKDPC advice on reporting drug addictions being drawn up in association with the PCC and the Society of Editors.

7. IB note: Clause 12i's reference to an individual's physical or mental illness or disability would usually include clinically-recognised addiction, but perhaps not occasional recreational drug use. However, the 'demonic' pejorative and prejudicial references that irk the UKDPC include terms such as 'Addict' - sometimes preceded by 'evil' or 'drug-crazed', or both. It is difficult to discern a cohesive line from the UKDPC's research, apart from a desire to balance the negative connotations by more positive reporting on rehabilitation and recovery. While we can make clear in the Codebook that irrelevant pejorative comments are already covered, any educational role might be better left to the Society of Editors etc.

Eating disorders

From B-eat Media

8. B-eat, which claims some medical backing, aims to curb media use of stereotypical images of severely emaciated bodies to portray eating disorders. It says people interviewed for their life stories often feel pressured to supply pictures of themselves at their lowest weight to show how ill they were. Such images 'do not help build a positive understanding of eating disorders in the general public and perpetuate the mistaken view that eating disorders are only about extreme thinness.' B-eat says these pictures are potentially harmful to people struggling to overcome anorexia. It wants the Code to introduce responsible reporting criteria similar to those for reporting of suicide, suggesting: Images used to illustrate cases of eating disorders should not include those showing skeletal emaciation.

9. IB note: B-eat's lengthy submission included examples of stories that went to great lengths to write positively about the problems of eating disorders, including giving publicity to the B-eat website. However, the organisation disagrees with the use of the before and after pictures often used in these cases to show recovery success stories. This is another case where better education would be more appropriate than coercion via a Code change, which would probably reduce coverage - both positive and negative.

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Islamophobia

From *ENGAGE*, a not-for-profit NGO working to improve British Muslims' participation in UK media and politics

10. Engage's submission includes a briefing paper issued as part of its successful campaign to form a new All-Party Parliamentary Group on Islamophobia. A media section highlights 'inaccurate and prejudice-inciting journalism'. The submission focuses primarily on three areas:

- **Accuracy** - it cites press pictures used to illustrate the Luton protest by Muslims against the Royal Anglian Regiment soldiers, which Engage suggested were distorting in that they gave the impression that there were far more protesters than was actually the case.
- **Siting of corrections** - Engage believes the British Muslim community feels the full impact of front page headlines and that prominent corrections are crucial in dispelling misconceptions arising from the original stories. It is particularly concerned that Northern and Shell is no longer part of the self-regulatory process, as it has been a prime offender.
- **Group and third party complaints** - it reiterates the Campaign for Press and Broad-casting Freedom's call last year for Clause 12 to be amended to allow complaints from third parties and groups rather than solely to identified individuals.

11. IB note: Calls to allow group and third party complaints under Clause 12 form the largest single body of complaints about the Code and the committee has remained steadfast in its view that the current clause strikes the right balance between freedom from discrimination and freedom of expression. It is difficult to see any compelling reason for change. However, Engage has adopted - in its submission to the committee, at least - a more moderate tone than some of its predecessors (for example, describing the Luton protestors as 'shameful and publicity seeking'). If the proposals are rejected - and if the Code Committee wished - I could, as an act of goodwill, offer to meet Engage to explain our reasoning in detail.

CLAUSE 15 FINANCIAL JOURNALISM

Declaring property interests

From

12. An apparently disparate group, possibly linked by an internet forum, suggests the Code rules on financial journalism should be extended to cover property, on the basis that those featured in such columns often have a self-interest in talking up or down the market. The forum group urge disclosure of the property interests not only of the journalists or writers but also of the newspaper publishers, and other details - such the client-base, or buy-to-let ownership - of firms and individuals providing advice, statistics or comment in property stories.

11. IB note: Clause 13i could conceivably cover insider trading-type situations involving property sales or development. So a journalist promoting his/her own buy-to-let property without revealing an interest might at risk a breach. But if they were advocating buy-to-lets generally, it would be unlikely that it would have a discernible - let alone significant - effect on their own investment. Unless there is a provable offence, it is difficult, if not impossible, to police.

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