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 15 April 2008.

Present:

Chairman: Paul Dacre (NPA)

Jonathan Grun	(NPA))	Neil Benson	(NS)	June Smith-Sheppard	(PPA)
Alan Rusbridger	(NPA)	Douglas Melloy	(NS)	Harriet Wilson	(PPA)
John Witherow	(NPA)	Ian Murray	(NS)	David Pollington	(SDNS)
Peter Wright	(NPA)				

Attending:

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

Election of Chairman:

Paul Dacre, Editor of the *Daily Mail* and Editor-in-chief of Associated Newspapers, was elected unanimously as Chairman; proposed by Alan Rusbridger, seconded by Neil Benson.

New member:

The Chairman welcomed June Smith-Sheppard, Editor, *Pick Me Up*; Editor-in-chief, *goodtoknow*. She replaces Lindsay Nicholson, who has joined the PCC.

Apologies:

Apologies were received from Adrian Faber (NS); Mike Gilson (NS); Neil Wallis (NPA).

Minutes of the meetings held on October 11, and March 2007 were approved and signed.

Business arising:

- ***Data Protection:*** The Chairman reported on industry delegations to Government on a range of issues including coroners' and family courts, CFAs and a freedom of expression audit of proposed legislation. The Justice Ministry had been receptive on these. Proposed laws had been altered and joint working parties set up.

  However, the industry's case against the threat to jail journalists for breaches of the Data Protection Act had faced a formidable defence from Information Commissioner Richard Thomas. Under the eventual compromise, the penalties would not be introduced but the Justice Ministry would have the power to activate them at any time. An amendment to the law allowing the defence that a journalist had reasonable belief that he was acting in the public interest was being introduced.

  Mr Dacre said this compromise was a Damoclean sword. The challenge was now to re-establish relations with Mr Thomas to show that the industry was putting its house in order. He suggested action on three fronts:

  1. The industry should show how it had changed since Operation Motorman in 2003 by demonstrating the various measures it had introduced to help avoid breaches of the Data Protection Act.

2. The NS and the NPA should launch an education and information campaign to raise the Data Protection Act's profile to help ensure compliance.

3. Although the Code's clauses covering Data protection had been amended, the Committee should go through the exercise again to get the message down the line. We needed to show we meant business – thinking laterally to send a signal that this issue was being dealt with effectively by self-regulation. Failure to do so would be a bad own goal.

Alan Rusbridger said he endorsed all that Mr Dacre had said. It was important to restore relations with Richard Thomas, who was a friend of the press on Freedom of Information. The secretary said an industry guidance note could be published in the online Editors' Codebook very quickly with an accompanying narrative. It was agreed an email draft should be sent to members for comment. A meeting could be held if more discussion were needed.

- ***Diana inquest:*** The secretary said the verdict jointly blaming the paparazzi for their role in the tragedy had effectively been anticipated by the Committee's 1997 major revision. The harassment clause was one of the toughest in the Code. Doug Melloy said failure to look at it again could expose the Committee to criticism. Harriet Wilson agreed. John Witherow said it was already very tight. Peter Wright said the danger was that editors often relied on paparazzi appraisals of the circumstances in which pictures were taken.

  Sir Christopher Meyer said, whatever the possible PR advantages of a change, the PCC hadn't experienced any difficulty with the clause as drafted. It was sufficiently strong. The challenge was to get it around the country where the problem was not simply of professional paparazzi, but of members of the public with cameras. There were also difficulties of operating in a global market, beyond the reach of UK regulation, and of intrusions by broadcasters, not covered by the PCC.

  The Chairman said he was surprised that there had not been greater public reaction following the Diana inquest verdict. The committee needed to be proactive, via a guidance note or some other action. A press announcement that the committee had considered the Code and decided no change would be needed would be defensive and inadequate. It was agreed to explore further options for action.

Code Committee profile: Various suggestions that the committee should be more transparent - including by publishing its minutes, allowing members of the public to attend its meetings and granting greater media access - were discussed. The Chairman said that if the Committee became subject to Freedom of Information access, it would have to take this on board, but his initial instincts were against it. Mr Rusbridger said he was not against publishing minutes, and Doug Melloy and Ian Murray both favoured greater transparency. The secretary said the committee's previous view was that publishing minutes would constrain debate. Experience elsewhere was that published minutes - such as those of the Information Commissioner's Office - were very circumspect. Such a record would be a less useful guide to the reasons behind individual Code amendments. It was agreed to keep the matter under review. Meanwhile, *The Editors' Codebook* online could be used to provide a helpful insight into the thinking behind developments in the Code.

Code Committee website: The secretary reported that the website had received 11,884 hits in March.

Irish Press Code: The committee noted that the Irish Press Code, to which many British publications were signatories, included elements that went much further than the Editors' Code. This might provoke renewed pressure for changes in the UK.

Coroners' Courts: The secretary said the Justice Ministry's consultation paper on sensitive reporting of inquests overstated the need for Code changes, where the real need was for coroners and the public to be educated on why inquests should be reported. Current PCC guidance on the Code's protection for bereaved families was not fully acknowledged. Mr Melloy and Mr Murray said coroners often did not appreciate the need for balance in reporting inquests, especially where it might cause distress.

Sir Christopher Meyer said the Code's current clause on sensitive reporting was perfectly adequate, but greater education was needed. The PCC already invited coroners to its roadshows, and this approach could be extended. Mr Rusbridger said the Editors' Codebook could also be used to set out the position. It was agreed that the secretary should draft a submission to the Justice Ministry consultation.

ANNUAL CODE REVIEW

Suggested amendments from the public, civil society and the industry were considered.

Accuracy

Clause 1iii - Due prominence: [redacted] suggested that as publication of corrections etc were the PCC's sole sanction, complainants should have precedence on prominence. He said the words *'due prominence'* should be replaced by: *'no less prominence than the offending article, or the part of that article which is inaccurate'.*

[redacted] said 'significant errors' should be acknowledged on Page 1, at least by a cross-reference to an inside correction.

Sir Christopher Meyer said the PCC already negotiated with editors on prominence. The *Evening Standard* had recently had a P1 cross-reference to an inside adjudication. Currently, 75pc of corrections were either on the same page as the offending article or forward in the paper. June Smith-Sheppard and Harriet Wilson said magazines habitually took PCC guidance on the siting of corrections.

* **Decision:** No change.

Clause 1iv – Defamation hearings: A Trinity Mirror suggestion that the clause be amended so that publication of a statement did not have to be agreed between the parties was deferred, in the absence of a comment from the Fleet Street Lawyers Association.

Children

Children's welfare: Swan Turton suggested the current wording - allowing children to be interviewed or photographed without a responsible adult's consent unless *issues affecting their own or another child's welfare were involved* - was too complicated and should be dropped. No such matter should be published, without consent, unless in the public interest.

The secretary said adoption of the amendment would mean that, unless prior consent was obtained, pictures of children at soccer matches or pop concerts and standard vox pops of children's views on boy bands or Harry Potter would be banned. However, the PCC had experienced some difficulty over the concept of child's welfare, especially in relation to photographs. Tim Toulmin said the wording wasn't perfect, but wasn't a problem. The Chairman said that, in his experience, the PCC was 'red hot' on protecting children.

* **Decision:** No change, but the secretary and PCC should liaise on a possible rewording.

Hospitals

Reporting on hospitals: Mr Chris Birdsall, Communications Officer of the Swindon and Marlborough NHS Trust, wanted the Code to stipulate that, before running stories critical of hospitals, proper checks should be made and health service professionals should be given a reasonable time to respond.

Health and science research: The General Chiropractic Council, a statutory regulator, asked that the Code Committee and PCC provide positive guidance on reporting outcomes of health and science research.

The secretary said the committee had not previously given guidance of this sort, nor tried to define 'a reasonable time' for official responses. That could open the floodgates to a range of similar requests for guidance notes.

John Witherow said the *Sunday Times* had extended the time it gave people to respond. Peter Wright said the fact that NHS trusts employed communications officers suggested they were set up to get rapid responses. Neil Benson said hospital press offices would often release to all media information sought by an individual paper. Tim Toulmin said the PCC already dealt with such cases, including deciding on reasonable time to respond.

* **Decision:** No change, but PCC case law in this area should be incorporated into the online Editors' Codebook to provide a context for what might be reasonable.

Reporting of Crime

Naming of innocent defendants: [redacted] reiterated his earlier demand that the Code should prohibit the identification of defendants unless or until found guilty.

* **Decision:** No change.

Reporting of judges: Lord Goodlad, chairman of the Select Committee on the Constitution, renewed a request for judges to be made a 'special case' under the Code. as they were not permitted under their own rules to use the PCC to complain about unfair or inaccurate criticism. The secretary had written to Lord Goodlad asking whether this would mean judges would be above *all* criticism and, if not, who would decide when it was justified. No substantive reply would be possible until May, when the Select Committee next meets.

* **Decision:** Deferred until a substantive reply had been received.

Discrimination

Inclusion of groups: The committee considered a variety of suggestions that the Discrimination clause should be changed to allow complaints of prejudicial or pejorative publication from groups, rather than individuals, and/or to allow third party complaints. The secretary said it had been the committee's consistent view that, while individuals should be protected from prejudicial references, any extension to include groups would limit freedom of expression, and could stray into matters of taste.

Reporting of Muslims: The London Mayor asked that the Code should be extended both to include groups generally and to include guidance on terminology used to describe Muslims.

The secretary said the Mayor's 160-page report cited inaccurate or distorted terminology, but appeared not to appreciate that this was already covered under the Code's Accuracy clauses, where complaints from groups *were* accepted.

* **Decision:** No change.

Reporting of travellers: The Irish Traveller Movement in Britain said newspapers failed persistently to correct errors or curb abusive and dangerous reporting. It wanted the Code to require the PCC to have *due regard for the need to eliminate unlawful discrimination; to promote equality of opportunity; and to promote good relations between different racial or other groups.*

The secretary said the Code already assumed compliance with the law, but it would be virtually impossible to police the promotion of politically subjective concepts.

* **Decision:** No change.

Discrimination against communities: Mr Stuart Hosie MP said a Jeremy Clarkson column in the *Sunday Times* discriminated against the Welsh, but a complaint was rejected because no individual was mentioned. He asked that the Code be changed to allow complaints about pejorative references to an individual's ***or community's*** race or colour etc.

* **Decision:** No change.

Reporting of cyclists: [redacted] wanted the Code changed, following a Matthew Parris column in *The Times* suggesting piano wire should be strung across country lanes to decapitate cyclists. The secretary said issues of taste were regulated by the editor's need not to offend readers. The evidence suggested this works: there had been so many complaints about the article that Mr Parris had apologised.

* **Decision:** No change.

Discrimination against Kosovan women: [redacted] said an Invemess paper's use of Forces slang describing Kosovan women as BoBFoCs – "Body off Baywatch, Face off Crimewatch" – was discriminatory. The distinction between individuals and groups was bogus when a sneering remark about a group applied equally to all individuals in the group.

* **Decision:** No change.

Gender identity: Stonewall Scotland, representing lesbian, gay, bisexual and trans groups, said the use of the term *gender* - introduced into the Discrimination categories in 2005 to protect people undergoing gender reassignment – was failing to protect trans people from being outed or abused in the press. This was because the difference between the meaning of the words *gender* and sex *are* not immediately apparent.

Stonewall suggested the Code should make clear that revealing that a person had undergone, or was undergoing, gender assignment was a breach of privacy. Also, the term *gender identity* should be substituted for *gender*.

The secretary said the current wording was introduced at the behest of other trans groups who had not since complained. It might be better to allow more time before amending it.

* **Decision:** No change.

Payments to witnesses

Timing approaches: The committee considered a proposal that rules covering Payments to Witnesses - introduced to avert a Government threat of legal sanctions on the press – should be eased. The new clause, agreed with the Lord Chancellor's department in 2002, banned any payment or offer to a witness or potential witness in a criminal trial while proceedings are active – usually until the trial was over. Now, editors have suggested to the PCC that the system is widely ignored, and that we should revert to the old rule, under which approaches could be made once a witness had given evidence and been released.

The secretary said that while there was a strong case for change, given the history of this clause, there would need to be consultation with the Justice Ministry, especially in the light of the concessions made recently on Data Protection.

Neil Wallis, who was not at the meeting, supported the change by email. He said police, and others acting as intermediaries, frequently approached newspapers to arrange deals with witnesses before the end of a trial. Newspapers obeying the Code were disadvantaged. Tim Toulmin said the police – including the former Chief Constable of Manchester - seemed to prefer the old rules, which had allowed some room for manoeuvre.

The Chairman said that the industry would be pushing its luck to try to get a concession from the Justice Ministry so soon after the Data Protection sanctions had been shelved.

* **Decision:** It was agreed to take no immediate action but to keep the matter under review.

Public Interest exceptions

Freedom of expression and privacy: Swan Turton claimed the Code's Public Interest panel gave weight to protecting freedom of expression, but not to protecting privacy and reputation. The public interest definitions should be changed to give equal weight to both or to delete the reference to freedom of expression.

The secretary the Code gave equal weight to both privacy and freedom of expression in its preamble. It had a Privacy clause, but no freedom of expression clause. The public interest panel restored the symmetry.

* **Decision:** No change.

Readers' letters

Unidentified authors: [redacted] said local newspapers in Prestatyn often print abusive letters while withholding the writers' names. She suggested the Code should prevent this where it was simply shielding a writer to allow them to criticise someone anonymously.

Doug Melloy said there were justifiable cases where letter writers had to be protected. Ian Murray agreed: some readers feared they might be hunted down. David Pollington said it was impossible to judge the validity of the case without knowing the full facts. The Chairman said that, while he had some sympathy with the complainant, we had to trust the editors.

* **Decision:** No change.

Suicide coverage

Bridgend suicides: The secretary said that following the Bridgend suicides coverage he had reviewed the Code, but it seemed to be operating effectively. Sir Christopher Meyer said the PCC was in active communication with the Bridgend MP and South Wales police, but had so far found very little evidence that UK print media had ignored the Code. Many of the complainants had been letting off steam, even though there were some grounds for complaint against UK broadcasters and foreign media. The PCC would continue with a public information and awareness campaign in the area.

* **Decision:** No change.

NEXT MEETING: It was left to the Chairman and secretary to call the next meeting, probably in September or October.