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Press Complaints Commission

From the Director

Fergus Reid, Esq.,
Clerk to the Committee,
Select Committee for Culture, Media and Sport,
7 Millbank,
London,
SW1P 3JA

2nd April 2003

Dear Fergus,

I thought some supplementary evidence on a number of points might be useful.

Our appearance before the Committee

First of all, thank you for your quick and helpful response to my letter of 26th March about Linda Gilroy MP. I understand, of course, that the Chairman was making some general points about the Code but it is unfortunate that the exchange was entirely predicated on a case about which we could have had no prior knowledge, particularly as the Chairman seemed to criticise us for not acting on the rumours mentioned by Ms Gilroy. Incidentally, we wrote to Ms Gilroy a week ago and since then have heard nothing – which leads me to think that perhaps the rumours were unfounded. If she is in touch, I will let you know.

On the issue of our appearance before the Committee, I must admit that we were also anxious that very few of the areas touched upon – police payments, very detailed points about legal actions relating to our constitution which impact on only a handful of cases each year, paedophiles and so on – related to the question of privacy and ordinary people. As our submission makes clear, we have a great deal of import to say on this subject. It is perhaps regrettable we did not get the chance to do so. I would of course still be happy to answer any supplementary questions in writing on the actual substance of the inquiry.

On that point, one or two Members also seemed concerned about – indeed, critical of – the length of our submission and supplementary evidence. I would like to point out that my colleagues and I between us put over 1,000 hours of work into the preparation of the document because of the pride we take in how the PCC works and protects ordinary people. We thought it would be of use to the Committee if they were looking into this important area. I hope it still may be.

Analysis of cases heard in secret

Let me now turn to my main point which is to set out in more detail our analysis of the cases the Committee discussed in private, and on which it appears to set a good deal of weight. In doing so, I will of course respect the confidentiality of the cases which you

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helpfully made available – and I must underline how grateful I am to you for assistance in allowing us to undertake this important scrutiny.

Of the cases of which you sent us details, there were 41 discernible complaints (as some individuals made more than one specific complaint about different publications). Of these 41, we have a record of 35. I assume the other six related to broadcasters, or were cases directly raised with newspapers. My analysis obviously excludes those.

Point 1. Of those 35 complaints on which the Committee is clearly placing so much import:

- 20 were about accuracy;
- 7 were about no specific Clause of the Code (matters of taste and so on);
- 1 was about discrimination and 1 about subterfuge;
- only 6 were about privacy.

It is therefore wrong to characterise the Committee's secret evidence as showing a real problem about intrusion and ordinary people – as our submissions, and those of most editors, have made clear – as most of it is about accuracy and in reality outside the scope of an inquiry into privacy. On the contrary, it suggests to me that standards in this area are very high, and the Commission's procedures for conciliating disputes effective.

Point 2. These 35 complaints cover eight specific years. This is an average of 4 complaints per year out of the 2,500 or so we normally deal with. Again, without being in any way complacent, this suggests there is not a significant problem with the redress most complainants receive.

Point 3. One or two of the Committee members have made incorrect assertions relating to the fact that the time taken in the investigation of these complaints was so long that people became "ground down." Excluding just two complaints which raised complex legal issues – and therefore had to be opened and closed, as a result of which the figures would be distorted – we have calculated the average time it took to deal with the 33 complaints you studied. It was **38 days** – an extremely quick time, and very much in line with our average. It is certainly much quicker than the statutory broadcasters. I am therefore at a loss as to why some Members – I think Mrs McKenna was one – suggested on the basis of this evidence that our procedures were long drawn-out?

Point 4. It is worth noting the outcome of the 35 complaints you studied.

- 16 of them were resolved to the satisfaction of the complainant;
- in 7 cases there was no breach of the Code;
- in 2 cases, there was no need for the Commission to take further action after a remedial offer from the editor concerned;
- 7 cases were not pursued by the complainant, or were outside of our remit;
- 3 cases were third party.

It is useful to point out, therefore, that in 10 of the 35 relevant cases the Committee is studying – just under one third of the total – the Commission was never in a position to reach a judgement on a complaint, either because it was outside of the Code, or it was third party, or it was not pursued. Of the 25 cases where we could take action, 16 were resolved – which I hope the Committee would find a reasonable performance.

Against this background, I am still at a loss to understand how Committee members can characterise these complaints in the way they do. **More importantly, although we are never complacent, they certainly do not substantiate in any way the proposition either (a) that there is a problem of privacy and ordinary people or (b) the Commission's powers are in some way deficient.**

Paedophiles

We are still unsure about what was at the root of Debra Shipley's questioning on this subject – as there is a very distinct difference between someone charged with a crime and someone accused of it without charge. However, I am taking the opportunity to send you for the record our guidance on this issue. It is available on our website, as I think I mentioned to Ms Shipley.

Derek Wyatt's complaint

Mr Wyatt used the opportunity of the hearing to raise his own complaint to us about *The Mail on Sunday*, and I thought a brief note about the matter would be helpful.

We received Mr Wyatt's complaint on 30th January. An initial offer to resolve the complaint was made through us on 31st January with a subsequent, substantial offer by the newspaper on the 13th February. Since then – despite reminders – we have not heard any further from Mr Wyatt. The file has now been closed in the absence of any response from him, in line with normal procedures.

I do not want to go into the merits of the case – as that is a personal matter for Mr Wyatt – but I do want to set out for the record that the whole process of complaint and resolution took just a fortnight: any delay that has occurred since then is a matter for the complainant not the Commission.

Max Clifford's evidence

Finally, Committee members will recall hearing from Max Clifford at the start of the inquiry about the cases of ordinary people he has taken up with newspaper editors. I was interested in this evidence and wrote to Mr Clifford asking for details one month ago. I have yet to hear from him, and assume that he therefore has no written material with which to back up his assertions. The one specific case to which he did refer was – in his own words – was “very old” and I doubt would happen now under the Code. I attach a copy of my letter for information.

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I hope these points are helpful. I would be grateful if you could draw them to the attention of the Committee, and confirm that this has been done.

Yours ever,

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

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On the reporting of cases involving paedophiles

Following a high-profile newspaper campaign which published details of convicted sex offenders, the Commission was asked by a number of interested parties to look into the issue to see whether any general guidelines could be issued to editors regarding the handling of similar campaigns.

In particular, the Association of Chief Officers of Probation (ACOP) and the Association of Chief Police Officers (ACPO) were concerned that high-profile campaigns identifying sex-offenders could hamper their work, which could in turn endanger public safety.

While it is not the role of the Commission to proscribe the publication of material that is legitimately in the public domain, it would urge editors to continue to think carefully before embarking on public campaigns of this nature. It recommends that editors should consult with representatives from the probation and local police services before publication. The appropriate contact for the probation services of England and Wales would be the Communications Unit of the National Probation Directorate on 020 7217 0658. Local social services are the likely equivalent in Scotland.

It also draws attention to the relevant areas of the Code of Practice:

First, it is essential that newspapers take the utmost care about the accuracy of any allegations that they are making given the scale of problems that could be created for innocent parties by inaccuracy.

Second, where there is an acknowledged inaccuracy, it is essential that editors correct it as soon as possible - with an apology if necessary.

Third, Clause 3 of the Code entitles everyone to respect for their private life. This includes people who have been convicted of crimes, although the reporting of someone's convictions would not normally be considered to be a breach of the Code. The Commission would particularly draw attention to the rights of relatives and friends of people who have been accused of sex crimes. Not only do they also have a right to respect for their private lives under Clause 3, but the Code also makes clear under Clause 10 that the 'press must avoid identifying [them] without their consent' - or unless there is a public interest in doing so.

Finally, the Code has strict provisions relating to the victims of sexual assault. Clause 7 relates to children in sex cases and says that the child must never be identified, that the word 'incest' must not be used where a child victim might be identified and that care must be taken to avoid any implication about the relationship between the accused and the child. Clause 12 adds that the press must not identify victims of sexual assault or publish material likely to contribute to such identification unless there is adequate justification, and, by law, they are free to do so.

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From the Director

Max Clifford, Esq.,
Max Clifford Associates,
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London W1Y 9AA

5th March 2003

I was pleased to have the opportunity to meet you at the Children of Courage Awards just before Christmas. I thought I would write following your interesting presentation to the Culture, Media and Sport Select Committee last week. As you may know, the Commission itself is set to give oral evidence to the Committee at the end of March, and there were a number of things that arose from what you said that the Committee may ask us about.

The first is your reference to a case in Scotland where the brother of someone who had died killed himself after being inaccurately quoted in the press. One hears about this tragic story from time to time although it has proved quite difficult to track down details of the case. In particular I would like to know when it occurred, as it is not clear whether it happened before the substantial revisions to the Code of Practice in 1997 or even before the PCC was created.

You also revealed that you have helped a number of ordinary people who had problems with the press by getting in touch with editors directly. Were these people who had not been helped by the PCC? A few details – anonymised of course – about the cases and which papers were involved would be most helpful.

If any of these matters are raised by members of the Committee I will of course refer to this correspondence and any reply – or lack of one – that I receive.

I look forward to hearing from you.

With kind regards.