PRESS COMPLAINTS COMMISSION

From the Director

Ayobola Akwarandu
Ministry of Justice
Information Rights Division
6.16, 6th Floor Selborne House
54-60 Victoria Street
London SW1E 6QW

24th January 2008

Dear Ms. Akwarandu,

I am writing to respond to the consultation on extending the scope of the Freedom of Information Act to include more organisations that carry out functions of a public nature. I am not returning the form containing a list of questions because, as I am sure will be obvious, it would not be appropriate for the Commission to comment on anything other than its own position.

The Commission does not consider that it should be listed as a public authority for the purposes of the Freedom of Information Act.

The PCC is a small organisation with just 12 full time members of staff. Its main function is to conciliate and adjudicate complaints from members of the public about print journalism under a Code of Practice that covers things such as accuracy, privacy and payment for articles. It has no statutory powers and subscription to the system is voluntary. There are therefore numerous structural reasons for it not to be included as a public authority for the purposes of the FoI Act.

- It receives no money from the taxpayer;
- Neither is it a public authority in the sense of being underpinned by statute;
- Its authority is derived from voluntary submission to its jurisdiction;

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Press Complaints Commission

- The impact on resources of compliance would clearly be disproportionate to the size of the company;
- It is by no means certain that, if the PCC did not exist, the state would have to intervene to regulate the activity in question. This is because of existing legislation (the HRA, DPA, RIPA, laws of confidence, libel and so on), and the inherent undesirability of direct regulation of the press. The PCC's role is over and above the considerable statutory obligations that are already imposed on the press.

There are other important reasons relating to its role:

- It has an adjudicative function similar to the courts. It is not a 'regulator' in the licensing or legal sense of the term;
- Information which is voluntarily provided by each party to a complaint frequently touches on private matters. If such information and evidence was withheld for fear of being discovered under FoI, the Commission's job of satisfactorily investigating and resolving disputes would be impossible;
- A significant percentage of the complaints handled by the Commission are about intrusions into individuals' privacy. The whole point of making such a complaint is to protect oneself from further scrutiny about private facts. The threat of disclosure of such information and objections to third parties would make the Commission's important work in this area impossible;
- Similarly, it would be difficult to offer the range of services designed to help protect people's privacy – such as private briefings based on individuals' circumstances, which are offered to everyone including those in public life – if the details were discoverable.

In short, being subject to the FoI would work contrary to the interests of people the PCC is set up to try to protect – individuals who are the subject of press interest.

With kind regards.

Tim Toulmin

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