

Full Fact Submission on Regulatory Approaches and User Experience*

The main business of press regulation is accuracy

Accuracy is the first and most crucial property that the public should expect of their press. If readers are not given accurate information about current affairs, what point does the press serve and how do we justify its many privileges, from libel defences to tax breaks?

As the PCC says, “the major cause of complaint has, for many years, been inaccurate or misleading reporting,” amounting to 87.2% of those with merit.¹ This is consistent with a lack of trust in journalism which far predates the hacking scandal. After bias complaints, which wouldn’t apply to the press, accuracy seems to be the BBC’s largest category of complaints too.²

Daily Mail Editor-in-Chief Paul Dacre recently said to a Joint Committee: “accuracy is the cornerstone of the existing PCC.”³ As his comment demonstrates, the press’s duty to be accurate should not and does not limit its freedom to campaign, to be opinionated or to select the news that it wants to cover. Any new regulatory system must have the same cornerstone.

But the press’s commitment to accuracy is inconsistent. One senior political journalist we contacted about an inaccuracy in a report told us in writing: “I know journalists, myself included, are guilty of some wilful acts of inaccuracy.” Such acts are harmful and should be seen as shameful. The Inquiry has the chance and, we believe, the duty to put forward a system that will make them far less common.

Inaccurate reporting harms both press and public

The phone hacking scandal has undoubtedly harmed public trust in the press, but it was already very low. We must ask why polling evidence consistently shows that journalists are about the last people trusted to ‘tell the truth’.⁴ More than simply stopping crime, restoring accuracy is the task that must be faced in order to restore trust in the press.

Inaccurate claims, when widely believed, make policy making much harder. Tony Blair famously said “this relationship between public life and media... reduces our capacity to take the right decisions”⁵ and, at a perhaps less controversial level, Tom Winsor wrote to his successor at the Office of Rail Regulation that “it should not be underestimated just how effective the constant repetition of unjustified criticism and imaginary facts can be in shaping political and public opinion.”⁶ These are not isolated examples and even

* Full Fact is an independent, non-partisan factchecking organisation, aimed at boosting public trust in the provision of information by the media and public figures. Our work puts us in the unique position of having a wealth of experience both of the extent of inaccurate reporting in the press, and in how newspapers, other media and their regulators respond to lapses and complaints. Nearly every major national newspaper has printed corrections in response to our factchecking—usually after we involved the PCC.

discounting professional gripes, it must be true that where the public generally misunderstands an issue it is harder to get good policy accepted. Bad policy wastes money and, in many fields—crime and health, for example—potentially costs lives.

Newspapers influence people's beliefs on important issues. For example, in the last ten years crime has generally fallen at a national level but at least 60 per cent of the population think that it is going up. According to the Office for National Statistics “newspaper readership was the strongest predictor of perceiving that the national crime rate had gone up.”⁷ Ipsos Mori has also found an apparent link between beliefs on immigration and newspaper readership.⁸ So despite being distrusted, newspapers are extremely influential. Both factors point to the need for greater accuracy.

The regulator is only part of a wider system for upholding standards

Debate so far has focused on what a regulator should look like. Your terms of reference are thankfully not so narrow because no regulator could do this job alone. The starting point of the regulatory approach should be its plans for working with others, just as health regulators depend on data and feedback to target their work. They must work with—

Newspapers themselves: self-regulation should mean just that, journalists and papers upholding high standards themselves. The regulator should be a backstop. The corrections we have obtained have been to unambiguous factual errors. We believe that it should not have been necessary to go to a regulator to get these corrected. Papers should correct errors themselves as soon as they are pointed out, but in fact only a couple can be relied upon to do this.

Readers' Editors: we see a potential for indirect regulation via readers' editors, which are currently inconsistently used by papers. The regulator would provide quality control, gather data from them for intelligence-led investigations, and act as a second tier for complaints. This would hopefully provide for a fairly quick and informal first tier system, and minimise costs while aligning them with the sources of complaint.

Civil society: Geoff Mulgan, when he worked in No. 10, was right to argue that “civil society, perhaps with the universities, could play a much more active role in assuring standards, investigating errors, and holding to account individual journalists and media outlets against a strong ethic of truth and accuracy.”⁹ Full Fact is a response to that and similar calls. However, it is vital that expert groups whose main role is not press accountability feel able to challenge misleading reporting and believe that it will be effective.

Regulatory objectives

In contrast to the PCC, Ofcom's statutory principal duty is to further the interests of citizens and consumers.¹⁰

The PCC's objects are very narrow, essentially "to consider, adjudicate, conciliate and resolve or settle" complaints.¹¹ It is not charged, for example, with upholding the Code generally. It should be. The current objects set the tone for an inadequate service that has much more in common with mediation than regulation, and being completely complaint-dependent makes the PCC seem almost inert sometimes. A future regulator needs to take an intelligence-led approach, with smart monitoring and use of data, strong external networks and targeted interventions as well as continuing to provide as good if not better complaint handling services backed up by more effective sanctions.

New regulators nowadays are routinely given public confidence objectives.¹² A new press regulator should have that too: it will take deliberate sustained effort to restore trust.

The user experience

Regulation will only work if user engagement is at the heart of its approach. The scale of the task and the expertise needed dictates that. With our frequent complaints to a variety of regulators and being probably the PCC's most frequent user, we believe Full Fact can make a unique contribution in explaining the user experience.

We have, frankly to our surprise and in spite of the expectations of our early advisers, developed a constructive working relationship with the PCC and respect their complaints team. Handling such complaints is hard: the BBC (which handles about ten times as many complaints) has recently had its system rightly criticised by the House of Lords Communications Committee.¹³

The PCC actually has a much more helpful complaints process, even though its effectiveness leaves much to be desired. Some of the things the PCC does well include the ease of making a complaint; acknowledgements; direct contact with human beings; and helpful staff who persist with a complaint until the complainant is satisfied. These basics are not universal. We have also twice had the heartening experience of seeing newspapers forced to reprint corrections which were not printed with due prominence.

Contrary to expectations we have not yet experienced the third party rule (which precludes complaints that directly affect an individual without their involvement) being used to block complaints about general accuracy, although there have been delays.

On the other hand, aspects of the system remain untested. For example, we are waiting to find out if the PCC will insist on front page corrections to front page inaccuracies. We are also concerned that people with less experience of the system tend to get less out of it.

However, there are also many difficulties with the process which call for a new approach.

A regulator with power to define and enforce its own procedure

The PCC depends on the cooperation of those it oversees. They need not abide by its requests and can even leave rather than face its adjudications. Typically it negotiates resolutions rather than adjudicating. This allows newspapers to temporise and be obstructive.

The responses we receive from newspapers to our complaints tend to go through some or all of the following stages, sometimes several times each:

- 1) To deny that a correction is necessary
- 2) To then accept the error and amend only online
- 3) To respond to a request for a printed correction by offering either a) a correction that doesn't clearly explain what was misreported or b) to print a letter from Full Fact explaining the error, without acknowledging it themselves
- 4) To offer a correction, but not on the same page as the original article was printed.
- 5) To finally print the correction as requested

It would be best for the Inquiry to examine correspondence conducted through the PCC to see this at work. Unfortunately the PCC's secrecy rule prevent us from submitting it as evidence. The rule seems to exist largely to spare papers' blushes and is at odds with the drive for open justice in courts of which the same papers have been loud champions.

Even when you are used to this it is time-consuming and tiresome. More worryingly, we regularly see inexperienced complainants settling for less than the Code of Practice clearly expects of newspapers. This is understandable when they may often be in a mismatched argument by correspondence with the newspapers' lawyers.

The PCC states that it gets complaints resolved within an average of 30.5 working days,¹⁴ but in Full Fact's experience it can take much, much longer. Our first complaint took nine months from article to final correction.¹⁵ Perhaps this reflects others giving up earlier.

This 'print now, correct much later' culture is at best a very weak incentive for media outlets to ensure that inadvertent errors have not crept into their reports. At worst it allows newspapers wilfully to distort information. At such a distance from the original inaccuracy, corrections are virtually meaningless as a sanction.

Because of these delays caused by publisher obstruction and its own weaknesses the PCC seems incapable of playing a useful role during election or referendum campaigns. Significant inaccuracies in three papers about the Yes campaign's financial interest in the result were only corrected at the end of June in two cases and the end of July in one.¹⁶

Mistakes are inevitable. Journalists cover complex subjects under great time pressure. Correcting inadvertent inaccuracies promptly is a sign of quality and it is disappointing to see it treated instead as a weakness to be resisted.

We believe a regulator needs to be able to:

- Impose deadlines for responses. If newspapers can write and publish a story in hours it shouldn't take months to consider a correction.

- Tackle abuse of its processes by complainants and publishers.
- Maximise the transparency of its process, within the limits of personal privacy.
- Place the burden of proof for accuracy on the newspaper where there is credible doubt about a claim.
- Set an appropriate standard of proof. Too often we seem to be discussing whether there is any conceivable accurate interpretation not whether a reader would have been misled.
- Pursue an inaccuracy even without a member of the public willing to argue through the rounds with the newspaper.
- Reject newspapers' proposed resolutions as insufficient in the public interest.
- When necessary, for example during elections, deal with a complaint rapidly.

A regulator with effective sanctions

We once factchecked an article which quoted only the first sentence of the following paragraph to justify a front page saying 'HOUSE PRICES SET TO SURGE'¹⁷:

~~"Clearly if the house supply-demand balance moves increasingly away from buyers towards sellers, it will provide significant support for house prices. Even so, we still consider that the fundamentals remain largely unfavourable for the housing market. Thus we maintain the view that while house prices are unlikely to collapse, they will fall by around 10 per cent from their peak 2010 levels by the end of 2011. Given that house prices have already fallen by some 3 per cent, we believe that they will fall by around 7 per cent in 2011."~~

It seems reasonable to suspect that this may have been wilful distortion. As it was in the Daily Express we were unable to take it to the PCC. However, had we done so, the most they could have done is require a correction. If it was wilfully inaccurate, that is useless.

We have also seen newspapers repeat inaccuracies that they had previously been required to correct by the PCC, with a subset of disability benefits claimants repeatedly wrongly described as 'fit to work'. Disability hate crime is not unknown and such coverage cannot help. That this lapse referred to people who may be less likely than average to be well-placed to object themselves is regrettable, as the DWP Select Committee has noted.¹⁸

The PCC needs sanctions that are effective when:

- There is a lack of good faith on the part of the newspaper, e.g. deliberate inaccuracies.
- Newspapers are repeat offenders – either newspapers which consistently distort facts or which print information that has already been the subject of PCC complaints to other papers.

Corrections should also be labelled as such, not given topical headings that make them look like news items.

A more effective Code of Practice

The Editors' Code of Practice is a strong document in many ways and does not appear to us to need fundamental reform. However, there are some important weaknesses.

- 'Due prominence' of corrections is vague and needs to be clarified. It is ridiculous that we are currently waiting to discover whether the Commission believes that full page front page errors require front page corrections.
- Headlines are difficult for many reasons including space, complexity and being written by sub-editors not the journalist who wrote the piece. They often avoidably distort by over-simplifying, and sometimes actually contradict, the piece they head.¹⁹ The PCC's studiously naive approach, which misses this point entirely, is to say that the headlines must be read with the piece in its entirety to assess accuracy. We say the Code of Practice needs to say something more intelligent about accuracy in headlines.
- Similarly, there is a persistent practice of running stories that are inaccurate with a final or very late paragraph which effectively invalidates the story. As Ben Goldacre notes these paragraphs "permit a defence against criticism, through the strictest, most rigorous analysis of a piece. But if your interest is informing a reader, they are plainly misleading."²⁰ A better Code and regulator would crack down on such tricks, not just in individual instances but thematically.
- The duty of accuracy has three parts: taking care not to publish inaccurate information; correcting when necessary; and distinguishing comment from conjecture and fact. While it is possible to get corrections in respect of the latter two, it is not clear that the duty to take care is enforced in its own right.

Expectations of newspapers

Most newspaper websites do not give a contact point for seeking corrections, nor respond to emails to the news desk. A few more give details of the PCC but neither we nor they believe they should be the first port of call. Fixing this would be a clear signal from the press of a new and better approach to the inevitable need for corrections from time to time. The Washington Post website goes further, inviting corrections beside every story.

A further demonstration of intent would be for newspapers to make more effort to refer to their sources (in particular by linking to them online). These are the sorts of changes that stand a chance of persuading the public of papers' commitment to accuracy.

If, however, any new regulator is to continue to exist in a fairly hostile environment where the spirit of the Code cuts little ice with at least some papers, then it must be designed to be robust.

Participation and compulsion

Opt-in regulation has failed with the Daily Express and Daily Star leaving the PCC. If regulation is not to be made compulsory, and inaccuracy and other untrustworthy behaviour are allowed to remain unchallenged, we revert to our original question: what point does the press serve and how do we justify its many privileges, from libel defences to tax breaks? There may be a case for saying those privileges are only justified for those outlets with a demonstrated commitment to press standards.

References

- ¹ PCC Annual Review 2010 via <http://www.pcc.org.uk/review10/statistics-and-key-rulings/complaints-statistics/what-do-people-complain-about.php>
- ² Based on the 152 complaints on which the Editorial Complaints Unit reached recorded findings from Oct 2010–Mar 2011. However, the BBC received 17,500 complaints in July 2011 of which no breakdown is published. They do state that only a minority related to breaches of editorial guidelines, which cover accuracy. http://www.bbc.co.uk/complaints/pdf/ecu_oct10_march11.pdf
- ³ Minutes of Evidence taken before the Joint Committee on the Draft Defamation Bill Monday 18 July 2011, p48 Q789 [HC 930-xiii forthcoming] via <http://www.parliament.uk/documents/joint-committees/Draft%20Defamation%20Bill/110718%20Defamation%20Transcript%20xiii%20Corrected.pdf>
- ⁴ See for example Ipsos Mori's *Trust in Professions* tracking data (1983–2011) via <http://www.ipsos-mori.com/researchpublications/researcharchive/poll.aspx?oltemId=15&view=wide>; the Committee for Standards in Public Life's *Surveys of Public Attitudes* (2008–2011) via http://www.public-standards.gov.uk/OurWork/Public_Atitude_Surveys.html; Edelman Trust Barometer (2001–2010) via <http://www.edelman.com/trust/2011/>
- ⁵ Tony Blair, *Reuters speech on public life* ('feral beasts'), 12 June 2007
- ⁶ Tom Winsor, valedictory letter of 4 Jul 2004, published by the Office of Rail Regulation under the FOIA.
- ⁷ Office for National Statistics, *Social Trends Crime and Justice*, August 2011, and http://fullfact.org/blog/crime_British_Crime_Survey_ONS_public_perception-2871
- ⁸ http://mori-ireland.com/DownloadPublication/240_sri_you_are_what_you_read_042005.pdf
- ⁹ Dr Geoff Mulgan (speaking in a personal capacity) L.S.E Lecture – Tuesday May 4th, 2004 *Good and Bad Government: change and continuity in the uneasy relationship between morality and power*. Available at <http://www2.lse.ac.uk/publicEvents/pdf/20040504Mulgan.pdf>
- ¹⁰ Communications Act 2003 s3
- ¹¹ Quoted in R (on the application of Ford) v The Press Complaints Commission [2001] EWHC Admin 683 at para 21
- ¹² See, for example, Charities Act 1993 s1B (as amended by the Charities Act 2006 s7) for the Charities Commission; Apprenticeships, Skills, Children and Learning Act 2009 s128 for OfQual; Banking Act 2009 s4 for the Treasury, FSA and Bank of England in respect of their powers under that Act.
- ¹³ House of Lords Communications Committee *The governance and regulation of the BBC* 29 Jun 2011
- ¹⁴ PCC Annual Review 2010 via <http://www.pcc.org.uk/review10/statistics-and-key-rulings/complaints-statistics/speed-of-service.php>
- ¹⁵ Articles 14 Sep, final correction Will Moy of Full Fact v Daily Mail (3 May 11) via <http://www.pcc.org.uk/case/resolved.html>. Note that there is sometimes a delay between the correction being printed and it being recorded as resolved by the PCC.
- ¹⁶ Electoral Reform Services Ltd v Daily Telegraph (29 Jul 11) v The Sun and v Daily Mail (29 Jun 11) via <http://www.pcc.org.uk/case/resolved.html>
- ¹⁷ Daily Express, 18 Jan 2011
- ¹⁸ Our coverage of this is at http://fullfact.org/blog/incapacity_benefits_welfare_ESA_fit_for_work_DWP-2853 and the DWP Select Committee *The role of incapacity benefit reassessment in helping claimants into employment*, from para 27
- ¹⁹ For example see http://fullfact.org/blog/immigration_figures_headlines_net_migration-2942
- ²⁰ Ben Goldacre *The caveat in paragraph number 19* via <http://www.badscience.net/2010/10/the-caveat-in-paragraph-number-19/>