

N Davies

xx December 2011

**LEVESON INQUIRY INTO THE CULTURE, PRACTICES AND ETHICS OF  
THE PRESS**

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**SUPPLEMENTARY STATEMENT OF NICK DAVIES**

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I, Nick Davies, of Guardian News and Media Limited, Kings Place, 90 York Way London, N1 9GU, WILL SAY as follows:

1. Further to my witness statement of 27 September 2011, I make this statement for the purposes of assisting the Inquiry, in order to explain the statistics summarising ten years of the PCC's handling of complaints, as set out at pages 364/5 of my book Flat Earth News which was published in January 2008.
2. On February 21 2008, Hold the Front Page - a respected website specialising in news about journalism - published a story in which they quoted the PCC claiming that the statistics were 'untrue', adding that I had not contacted them about the figures. They said Sir Christopher Meyer would be writing to me about it. (<http://www.holdthefrontpage.co.uk/2008/news/newspaper-watchdog-locks-horns-with-author-over-controversial-complaints-stats/>) I received no letter from Sir Christopher.
3. Shortly after that, in early March, the Press Gazette - the long-established leading magazine for the reporting of British journalism - published a letter from Tim Toulmin in which he said that the PCC had told me that my statistics were wrong and that they had confronted me over this and that I had given them a 'huffy' response. I am afraid I cannot find a link for this, but the contents of Tim Toulmin's letter are clear from the following email:

**From:** [nick@nickdavies.com](mailto:nick@nickdavies.com)  
**Subject:**  
**Date:** 6 March 2008 16:42:09 GMT  
**To:** [tim.toulmin@pcc.org.uk](mailto:tim.toulmin@pcc.org.uk)

Tim,

You seem to be telling people, including innocent readers of Press Gazette, that you've pointed out to me that there is some kind of problem with the figures about the PCC in Flat Earth News. But you haven't. As far as I can gather, you are claiming to have sent me a letter. Nothing has arrived. You claim in Press

Gazette that I was huffy with you when you pointed out the error of my ways. I wasn't - because, of course, you haven't. You also claim in Press Gazette that I never checked with the PCC. But I did, several times.

So, can you please: either shell out for a stamp and an envelope and send me the letter which you claim to have written; and/or email it to me; and do stop making things up?

Good luck,

Nick

4. I received no reply from Tim Toulmin. And so, I emailed him again

**From:** [nick.davies@pcc.org.uk](mailto:nick.davies@pcc.org.uk)  
**Subject:** Flat Earth News  
**Date:** 15 March 2008 09:56:34 GMT  
**To:** [tim.toulmin@pcc.org.uk](mailto:tim.toulmin@pcc.org.uk)

Tim,

I am updating Flat Earth News for the paperback edition and would like to write about the PCC's reaction to the book. You've claimed publicly that the book misrepresents the PCC's figures; and that you have pointed this out to me. But since the latter is untrue, I have no way of knowing what you mean by the former. I emailed you nine days ago and asked you to explain. You haven't. Will you please now send me an explanation for your comments?

Nick Davies

5. Ten days later, he replied:

On 25 Mar 2008, at 10:31, Tim Toulmin wrote:

Dear Mr Davies

I am sorry for the delay in replying. I have been away on holiday. I am pleased that you are updating the book, since your figures on the PCC are very misleading.

Christopher Meyer wrote to you, care of your publishers, some time ago.

I have pasted the text below. When you responded to our position to the Hold the Front page website, you were quoted as saying that "the figures quoted in Flat Earth News are accurate.

They come from the PCC's own archive. The PCC's failure to stand up for those who have good grounds to complain about misbehaviour by the press is a small scandal. I am ashamed of them". This sounded to me like a huffy justification for your inaccurate presentation of the situation, hence my letter to Press Gazette.

I hope that you really do want to correct the position.

Yours sincerely

Tim Toulmin

From the Chairman

Nick Davies Esq  
c/o Chatto & Windus  
Random House  
20 Vauxhall Bridge Road  
London SW1 2SA

22 February 2008

Dear Mr Davies

You will be aware that during an appearance on 30th January before the House of Lords Communications Committee, I questioned the statistics you used to make false allegations against the PCC in your book, "Flat Earth News". Let me explain in detail why you got it so wrong.

It is false that the PCC "refused to consider ruling on 25,457 complaints" over the last ten years. Among other things, you failed to take into account the numerous rulings of the PCC which are not published. We issue over a thousand rulings every year, many of which do not appear on our website or become otherwise public. This is because some people ask for no publicity, and some cases raise no issues of policy or precedent that require public ventilation. We use our published rulings to set standards for the industry; they would be less meaningful if they were accompanied by a host of other cases that do not raise such issues.

Had you bothered to check this with us first - and we would have been very happy to co-operate - you might have avoided this schoolboy howler.

The mistake you seem to have made is to count the total number of complaints and subtract the published rulings. This inevitably produces a wildly inaccurate figure. The reality is quite different. Take 2007. We received 4,320 complaints. We issued 1227 rulings. Around half of the latter were not published. So, we ruled on approximately 25% of complaints received, and 56% of those that the complainant pursued formally.

We disallowed last year only the following categories of complaint:

115 because they were about taste and decency, i.e. outside the remit of the Code of Practice. 619 because they fell under another regulator e.g. complaints about advertising or the BBC (but we wrote to the relevant organisations on the complainants' behalf). 199 because they were from unconnected third parties (but these were first considered fully by the Commission to see whether it could reach a decision without the involvement of the first party. On some occasions it will contact the first party to solicit a complaint).

Let me be very clear. Any complaint made under the PCC's Code of Practice is fully considered by the Commission. The only possible exceptions are where the complainant decides not to proceed further; or where the complaint is made more than two months after publication. Even then, if there are good reasons for delay, the Commission will investigate the complaint. In 2007 only 17 complaints were disallowed for reasons of delay.

How ironical that your failure to check the facts and respect one of the elementary rules of good reporting should give you a place of honour, if that is the right word, at the Flat Earth School of Journalism.

Yours sincerely

Dictated by Sir Christopher Meyer  
and signed in his absence

6. I then replied, including a detailed account of the origin of the statistics.

From: Nick Davies [<mailto:mail@nickdavies.net>]  
Sent: 07 April 2008 21:09

To: Tim Toulmin  
Subject: Re: Flat Earth News

Tim,

Thank you for sending me Sir Christopher's letter. It is a shame that this has been circulated to various third parties before it was sent to me. I myself have been away and have only just read it for the first time. Several small points and then the substance:

It is not true to say, as you did in your letter to Press Gazette and as Sir Christopher does in his letter to me, that I failed to talk to the PCC about this. I have notes of two conversations, one with 'Stephen' and one with 'Stig' (two names for the same person, I think), in which we discussed the precise meaning of the various figures involved here.

It is not true to say, as you did in your letter to Press Gazette, that I responded huffily after you approached me. You never approached me and citing my quote to Hold the Front Page doesn't change that.

It is not true to say, as Sir Christopher suggests in his letter to me, that I have derived my figures by counting the total number of complaints and subtracting the published rulings. I hired a particularly bright researcher who went to your website; clicked, not on Adjudicated Complaints, but on Complaints Statistics in the left-hand menu; went through every set of statistics for every period from July 1996 to July 2006; and produced a table listing the statistics, category by category, for every year. I then personally repeated the entire exercise, and it was in the course of doing that, that I spoke to Stephen/Stig to clarify the meanings of various sub-headings, particularly those which had changed slightly over time.

The substance. If need be, I can send you the summary spreadsheet which I produced which breaks down these statistics into their annual totals and sub-totals, but, taking it by category, what we found was that for the ten years from July 1996, you had dealt with complaints as follows:

Total number of complaints	28,227
No case under the code	6942
Outside remit	6045
Disallowed on ground of delay	0949

Third party complaints	1940
Complaint not formalised	4294 (category only from 2004)

These are the figures which form the basis of the paragraph on p364 of the book, beginning "The obstacles that were placed in the way...". Do you accept that these figures are accurate?

Adjudicated	0448
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Do you accept, first of all, that this is an accurate total of the figures provided on your website? In his letter to me, working on the false assumption that I've simply taken the total number of complaints and subtracted the total number of published rulings, Sir Christopher suggests that I've omitted a significant number of adjudications where the complainant asks for no publicity. I can understand how that would limit the number of cases which are actually described in summary narrative on the website, but surely you are not claiming that your entirely separate published summary of statistics also omits all those cases where the complainant requests no publicity even though the statistics themselves could not possibly breach the privacy of any complainant?

Resolved	7197
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Sufficient remedial action	0412
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I discussed these figures at the time with Stephen/Stig, who, according to my notes, pointed out that they were misleading because, until 2004, the category 'resolved' included figures for complaints which were made but simply never followed up by the complainant. He then provided me with figures for each year going back to 1995 for 'real resolutions'. These totalled 2,322 for the ten-year period. This figure included the 412 listed above for 'sufficient remedial action' but did not include the 448 for adjudication, which, after discussion with Stephen/Stig, I then added, to provide a total for the number of complaints which were 'accepted for investigation'. This is the source of the figure of 2,770 in the next paragraph on p 364 of the book.

Finally, working from the same source in the same way, the sub-totals for the outcome of those 448 cases which were adjudicated, showed that 251 failed and 197 were upheld - the source for the figure quoted at the top of p 365.

Having spoken to Stephen again today, it seems to me that your complaint really rests on the meaning of the word 'ruling' in my

book. I believe it is entirely clear to anybody who reads these three paragraphs that I am using the word as an equivalent to 'adjudication' - the figures which follow make that obvious. If, within the PCC, there is a strict distinction between a 'ruling' and an 'adjudication', that is a perfectly reasonable use of English but not one which the rest of us are compelled to adopt. On that basis, there is no need for me to change a single word of what I've written. However, in the interests of clarity, I'm happy to use the word 'adjudicate' rather than 'ruling' in the paperback edition, which is the one which is most likely to be read widely and in the long term.

Having reviewed all this, I think your letter to the Press Gazette and Sir Christopher's to me were misleading, overstated and unfair. Also in the interests of clarity, I will highlight that in what I write.

Nick

7. Tim Toulmin then replied. He made no challenge to any of the statistics which I had quoted in my email, but he did continue to disagree with me:

On 11 Apr 2008, at 16:01, Tim Toulmin wrote:

Dear Mr Davies

I think you are splitting hairs over my letter to Press Gazette. The starting point was that you got in a mess about the statistics, and our position was put to you through Hold the front page and also in a letter from Christopher Meyer. Your recorded response to our position was the quote to hftp that I mentioned. I did not say that you had never approached us (and in fact made clear your position that you said you based your claim on our own figures); but rather that you did not check your understanding (that we rule on 'almost no complaints at all') with us.

The fact is that in your book you have taken a small part of what the PCC does (adjudicate on complaints at formal PCC meetings) and imply that that is all that the PCC does, so that it is free to spend the rest of the time thinking up ways of dismissing legitimate complaints as if it were somehow immune to judicial review and political scrutiny. It's up to you if you want to portray the PCC in this way in order to fit your narrative. It just happens to be completely misleading.

I'm not saying that we have always communicated the range of what we do brilliantly. Hopefully that is improving too, however.

I will send you a copy of our annual report when we publish it next month which will detail examples of how we help people whose problems are sorted before they even need to make a complaint (satisfied customers who don't appear at all in the formal statistics).

It is therefore untrue to say, as your book does, that the PCC "refused to consider ruling on 25457 [complaints]: just over 90% of those complaints were rejected on technical grounds without the PCC even investigating their content".

So our complaint is about more than the meaning of the word 'ruling'. I guess that you have probably made up your mind about how you are going to amend Flat Earth News, but I shall read it carefully as I think my letter to PG was both fair and accurate and that you did get the wrong end of the stick over the PCC statistics.

Best wishes

Tim Toulmin

Ps. Have we ever met?

8. I replied to him:

**From:** [nick@pcc.org.uk](mailto:nick@pcc.org.uk)  
**Subject:** Re: Flat Earth News  
**Date:** 13 April 2008 18:24:16 BST  
**To:** tim.toulmin@pcc.org.uk

Tim,

I'm afraid your latest message adds nothing other than confirmation of my worst fears about you and the PCC.

Nick

9. I concluded from this email exchange that the statistics in question were valid. To my surprise, however, the PCC continued to attack them in the same way.

10. In a press conference in May 2008, marking the publication of the PCC's annual report, Sir Christopher Meyer said that I had got the statistics 'badly wrong', repeating the claim that I had made the mistake of taking the global figure for the number of complaints made and simply subtracting the number of adjudications. (<http://www.pressgazette.co.uk/story.asp?storycode=41213>)



11. According to a report published by journalism.co.uk in March 2009, Tim Toulmin continued to repeat the core of the claim, that I had misused the statistics: "We don't recognise his interpretation." (<http://www.journalism.co.uk/news-features/what-next-for-the-pcc-answers-from-its-supporters-and-critics-/s5/a533662/>)

I believe that the contents of this witness statement are true.



Nick Davies

28.03.2012

Date

N Davies

December 2011

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AND ETHICS OF THE  
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SUPPLEMENTARY STATEMENT  
OF  
NICK DAVIES

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