

The governance of the Press Complaints Commission: an independent review

July 2010

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Preface

In August 2009, Baroness Buscombe, Chairman of the Press Complaints Commission (PCC), announced an independent review into the governance of the organisation. The aim of the initiative was:

“To review matters relating to the governance of the Press Complaints Commission, and to make recommendations in order further to build public confidence in the administration of independent press regulation in the UK.”¹

This is the first such review in the history of the PCC, and has represented an opportunity to test and improve structures and processes that have evolved from the establishment of the organisation in 1991. We have borne in mind throughout the views of a wide range of individuals and groups with a perspective on the PCC, including complainants, lawyers, politicians, journalists, academics and policymakers. We have also consulted senior representatives from other regulatory and self-regulatory bodies (see Appendix 1). We are grateful to all those who have contributed to this review.

The Governance Review panel consists of the following members:

- Vivien Hepworth, (Chairman of the Review Group), Executive Chairman of Grayling in the UK and Ireland; and former member of the Press Complaints Commission;
- Stephen Haddrill, Chief Executive of the Financial Reporting Council;
- Dr. Elizabeth Vallance, Chairman of the Institute of Education; Member of the Committee on Standards in Public Life; and member of the PCC Appointments Commission;
- Eddie Young, former Group Legal Adviser of Associated Newspapers.

Our inquiry has taken place against the backdrop of the considerable technological and structural change in the newspaper and magazine industry that has occurred in recent years. More specifically, it follows a wide-ranging examination of press standards by the Culture, Media and Sport Select Committee, which produced a report in February 2010 endorsing self-regulation, but raising important questions about some aspects of the way the PCC operates.

The PCC has always been – and will always be – the focus of legitimate scrutiny and challenge. Recently, there have been controversies surrounding the reporting of the disappearance of Madeleine McCann, and the allegations of phone message hacking involving News International. The Governance Review has taken account of lessons learned wherever possible in its conclusions.

We also called for submissions from any interested party (and received 40, which can be accessed at: <http://www.pccgovernancereview.org.uk/gr/received-submissions.html>). We also held oral evidence sessions, and over five months spoke to 29 individuals (see Appendix 2 for the full list).

In the course of its work, the Governance Review heard a very wide range of opinions, from the highly critical through to the strongly supportive. Our report cannot – and does not seek to – bridge the gap between some of the opinions expressed. Nor do we try to respond to all of the points that have been raised, many of which fell outside our remit. The challenge for the Governance Review was to see how the organisation, and those it serves, could benefit from improvements to its overall governance. Our terms of reference can be accessed at: <http://www.pccgovernancereview.org.uk/gr/consultation.html>.

¹ The press release announcing the review can be read at <http://www.pcc.org.uk/news/index.html?article=NTg1MA==>

Summary

Corporate governance is usually defined as the system under which an organisation is appointed and held to account. We have distilled this notion into five key tests of the quality of governance. These comprise the five main sections of this report: clarity of purpose; effectiveness; independence; transparency; and accountability.

The following summarises our key conclusions, with specific recommendations appearing in bold throughout the report. A summary of all recommendations appears in Appendix 3.

Clarity of purpose

A clear role for the Commission

The PCC should publicly define its purpose and the range of its activities. This includes when it will act proactively and when it will wait for a complaint. There should be greater clarity about how complaints are considered, and how rulings can be challenged. The Commission should also spell out what sanctions it has available and how they are deployed.

Effectiveness

Tougher scrutiny rules

The existing Business Sub-Committee should be abolished and replaced by an Audit Committee with wider terms of reference to scrutinise the service received by complainants, overall performance, risk and financial management.

More industry engagement with the system

Editorial service on the Commission should become more widespread, and be regarded as a duty of editors. PressBof should take active steps to encourage this. Industry members should be encouraged to refer ethical issues themselves to the PCC for consideration.

Independence

A stronger Board

The PCC should draw more heavily on the experience of its Board, especially its lay (i.e. public) members. This should be reflected in the annual planning of activities; the routine engagement of the Board in considering what steps should be taken to deal with issues of public concern; and the use of Board working groups to develop thinking in challenging areas of policy. A new role of Deputy Chairman should be established to enhance the influence of the lay majority and support an improved scrutiny function.

A stronger lay voice on the content of the Code

New rules are needed about consultation of the Commission by the Editors' Code of Practice Committee to ensure the lay voice is properly represented prior to the annual review of the Code.

Transparency

Greater transparency about appointments

The existing Appointments Commission should be abolished and replaced by a Nominations Committee operating consistent rules for the appointment of both lay and editorial Commissioners.

Greater openness about the system

There should be an increase in information about how the system is structured – including the relationship between the PCC, PressBof and the Code Committee – and the publication of consistent, accessible data that allows easier analysis and assessment of the PCC's work by the public.

Accountability

More rigorous examination of performance

The role of Independent Reviewer (formerly the Charter Commissioner) should be expanded to hear challenges to decisions based on substance as well as handling. The Board should establish annual objectives and publicly report whether it is achieving them. The Commission should evaluate its own performance, and that of its Chairman, on an annual basis.

The PCC and self-regulation

1. The PCC is the major part of the press self-regulatory system in the UK, but it does not stand alone. Given that this report is concerned with not only the structure of the PCC but its relationship with other parts of the system, it is important briefly to set out the roles of each of the relevant bodies that function together. A chart showing the relationship appears in Appendix 4.

The Press Complaints Commission (PCC)

2. The primary role of the PCC is to handle complaints, by administering and upholding a Code of Practice. Where possible, the PCC uses mediation to resolve complaints to the satisfaction of the individual concerned. It exercises its powers of critical adjudication where this is either not possible, or not appropriate. The Commission comprises 17 members: seven industry representatives from across a range of newspapers and magazines; and 10 lay members who are drawn from a variety of backgrounds not associated with the press. The Board of the Commission has one permanent sub-committee which reports to it, the Business Sub-Committee, comprising the PCC Chairman and three lay members, who – together with the PCC Director – monitor PCC finances and scrutinise the annual budget. The Commission is supported by a small Secretariat (of 15), who have no background in journalism. The PCC's website is www.pcc.org.uk.

The Editors' Code of Practice Committee (the Code Committee)

3. The PCC does not determine the wording of the Code. That is the responsibility of the industry, via a committee of editors: the Editors' Code of Practice Committee. The Code is reviewed on an annual basis using public consultation (via a call for submissions) in order to take account of changes in public attitudes. It also reflects the experience of the Commission itself, which is conveyed to the Code Committee by the Chairman and Director. The Code has been subject to numerous changes since it was first drawn up in 1991. The Code Committee's website is www.editorscodereview.org.uk.

Press Standards Board of Finance (PressBof)

4. PressBof is the industry body which is responsible for the funding of the PCC. The PCC's income is collected via a levy on all subscribing newspapers and magazines. By raising funds through an agreed system, PressBof ensures that the Commission does not receive its income direct from industry members, which protects its independence on individual cases. PressBof also appoints the PCC Chairman, and nominates the editorial members of the Commission.

The Appointments Commission

5. The Appointments Commission is formally responsible for appointing new members of the Commission, as well as the PCC's Charter Commissioner and Charter Compliance Panel. (The Charter Commissioner currently deals with complainants who believe their complaint has been mishandled; the Charter Compliance Panel carries out spot audits and other checks as part of the PCC's quality control systems.) The Appointments Commission comprises: the Chairman of the PCC (who chairs the Appointments Commission); the Chairman of PressBof; and three public members, who are appointed separately and are not members of the PCC.

Brief history of the PCC

6. The UK press has been subject to self-regulation for more than 50 years. From 1953 to 1990, the relevant authority was the Press Council, which enforced no Code of Practice and issued rulings without receiving first-party complaints. It also acted as a defender of the press.
7. The conflict between issuing rulings against, and defending, the press contributed to the Press Council losing the confidence of many people in the industry as well as within Parliament. In 1990, the government appointed a committee under David Calcutt QC to consider "what measures (whether legislative or otherwise) are needed to give further protection to individual privacy from the activities of the press and improve recourse against the press for the individual citizen"². Its main recommendation was the establishment of a new organisation which – assuming it could prove its effectiveness – would be kept free from statutory control.

² Calcutt, D. et al, 1990. Report of the committee on privacy and related matters, Chairman David Calcutt QC, London: HMSO. (Cm. 1102). Note 1, para 1.1.

The PCC and self-regulation

Continued

8. In response, the industry set up the Press Complaints Commission. PressBof (which was established shortly after the publication of the Calcutt report) took on a co-ordinating role for the industry, establishing the Code Committee and tasking it with producing the industry's first ever Code of Practice. The Code bound all publications to a common, agreed set of principles.
9. As Calcutt (and others) believed that the Council's role defending the press at the same time as adjudicating against it could not be sustained, the PCC was constituted largely as a complaints-handling body (for a brief description of the complaints process, see Appendix 5). It was founded on the principles that its services should be free and available to everyone.

The self-regulatory model

10. The PCC is not a statutory regulator. It is part of a self-regulatory system that involves a large degree of lay influence, and has the following characteristics:
 - it is funded at arm's length by the industry, through PressBof;
 - it is led by a Chairman who is appointed by PressBof;
 - it has a Board combining lay and industry representatives, with a built-in lay majority;
 - its work is implemented, under Board supervision, by a professional Secretariat.
11. The Governance Review believes that the basic philosophy of self-regulation – that it is free from state control, has industry involvement, but contains a strong lay influence – is sound. Press involvement in the system is a strength. It guarantees the following: financial support from the industry, which means that the service is free to the consumer; practical co-operation from members in the investigation of complaints about their activity; and the organic development of the Code of Practice, which means that standards are agreed by the industry, before being enforced by the PCC.
12. The Governance Review received relatively few criticisms about the Code itself. This suggests that the Code should be given more weight as one of the key assets of the self-regulatory system. We consider that the Code Committee should give further thought to setting out more publicly how the Code has brought about direct change to industry behaviours and standards.
13. There is no question, however, that suspicion lingers over the notion of self-regulation as a philosophy, with its implied corollary of industry self-interest and control. Accusations of self-interest, whether well-founded or not, are important, as they can affect public confidence. The Commission must strongly grip the need for this self-regulatory system constantly to exert itself to demonstrate good evidence of its robustness and independence of judgement.

Looking to the future

14. The PCC has helped a substantial number of people achieve redress against the press – for no cost, and with a minimum of fuss. Judging by the doubling of the number of rulings over the last five years and the increase in the number of people contacting the PCC, the public seems to value the service it provides. However, the Commission has not examined carefully the reasons for the increase, for example asking whether rising numbers of complaints reveal a fall in industry standards, or a rise in accessibility. More work on this needs to be done.
15. High levels of complaints put more stress on the system. Mass complaints, such as the 25,000 people who complained about the Jan Moir article in the *Daily Mail* on the death of Stephen Gately, will particularly increase that strain, if repeated. So far, the Commission has been able to absorb this additional workload without missing its overall targets for responding to complaints³. The PCC's area of activity has also increased to cover more than just complaints handling, including offering pre-publication advice and expanding its outreach and training work. The challenge, from a governance perspective, is to ensure the organisation remains equipped to deal with such additional pressures, without compromising its primary purpose.
16. The report reflects this challenge, and the recognition that the system needs to secure confidence in a world where public trust is increasingly hard to maintain. Support for self-regulation in the future will only be achieved if some of the criticisms levelled against it are tackled head-on.

³ The PCC aims to deal with complaints in an average of 35 working days. In 2009, it dealt with substantive complaints (i.e. complaints which could be dealt with either through mediating a settlement, or where a formal ruling could be made based on the Editors' Code of Practice) in an average of 18.4 working days. In 2008, the figure was 25.7 working days.

Clarity of purpose

17. When an institution has existed for nearly two decades, and sought to develop in response to changing circumstances, there is merit in examining its original purpose.

18. The Memorandum of Association for the PCC states:

“The objects of the Company (hereinafter called “the Commission”) are to consider, adjudicate, conciliate and resolve or settle by reference to the Code of Practice promulgated by the Press Standards Board of Finance (registered in England and Wales with number 2554323) for the time being in force complaints from the public of unjust or unfair treatment by newspapers, periodicals or magazines and of unwarranted infringements of privacy through material published in newspapers, periodicals or magazines (other than advertising placed by third parties) or in connection with the obtaining of such material and to publish or procure the publication of any findings of its adjudication, for the purpose of ensuring that the Press of the United Kingdom maintains the highest professional standards and having regard to generally established freedoms including freedom of expression and the public’s right to know, and defence of the press from improper pressure.”⁴

19. The Articles of Association also refer to the fact that the Commission has responsibility to:

“consider and pronounce on issues relating to the Code of Practice which the Commission, in its absolute discretion considers to be in the public interest”.⁵

20. This remit of the PCC is awarded to it by the industry. The current organisational framework allows the PCC to do the following:

- issue rulings on complaints;
- publicly censure editors for breaches of the Code;
- negotiate amicable settlements between complainants and editors;
- issue advisory notes to editors to prevent harassment;
- give pre-publication advice to editors;
- advocate on behalf of individuals before publication to help prevent the appearance of inaccurate or intrusive material;
- issue formal guidance to the industry on important issues;
- instigate its own investigations in the public interest;
- offer training to working journalists and students;
- liaise with other press councils internationally, and share intelligence and experiences.

21. The Commission has not, in the past, been clear and open about all of its functions. **The Commission itself should take responsibility for setting out what its role entails (in reference to all of the above areas), and make clear the areas of activity against which it should be judged.**

22. Otherwise, the Commission is not in a position satisfactorily to answer the regularly-posed question about whether it is a regulator. In developing clarity about its role, it will be able to explain that, while its work incorporates regulatory functions, it is not constituted – nor funded – to produce formal top-down regulation. Nor is such regulation appropriate for an industry which has freedom of expression at its centre. It should be clear about this, and not apologise for it. Some criticism of the organisation comes because it fails to manage expectations about what it can and cannot do. It is a self-regulatory body, which looks to enforce standards by handling complaints and by proactively considering issues that relate to the Code of Practice. This should be made apparent in public statements.

23. **In particular, the Governance Review recommends that the Commission should make plain how it considers standards issues. The role of maintaining standards, under the Code, should cut across the organisation as a whole. However, there is no need, in our view, for one position (such as a Deputy Director) to be created to deal with this function. Nor should the Commission change its name to refer specifically to standards. Its role in considering standards should be made apparent both in terms of its public statements and actions in the context of enforcing the Code.** The PCC has good name recognition⁶ and a major re-brand would be expensive without obvious reward.

⁴ Press Complaints Commission Memorandum of Association, point 3.

⁵ Press Complaints Commission Articles of Association, Article 53.1A.

Available at http://www.pcc.org.uk/assets/111/PCC_Articles_of_Association.pdf.

⁶ 81% of people have heard of the PCC, according to polling conducted by the PCC in 2010. This bears comparison with other regulatory bodies. The full results can be seen at http://www.pcc.org.uk/assets/111/PCC_Survey_2010.pdf, while information about the polling methodology is available at <http://www.pcc.org.uk/externalrelations/research.html> under the heading “Public attitudes towards the PCC and self-regulation research (2010)”.

Clarity of purpose

Continued

24. The other major issue that requires clarity is the extent to which the Commission should initiate investigation of its own volition: the notion of “proactivity”. The PCC regularly contacts individuals at the centre of news stories to offer its services, which can then lead to complaints. However, if the complaint is not forthcoming, the PCC cannot act.
25. The Commission has released public polling that shows that most people do not wish a regulatory body to act on their behalf without their consent⁷. The Governance Review accepts that the PCC cannot force its judgements upon those who do not wish to participate. Nor can the Commission reach reasonable judgements without the information and perspective of those involved in a case.
26. There are also other practical considerations. The PCC cannot act in regard to every story, or indeed even every major story, that preoccupies the press. The PCC should not pretend to be able to do so, or it will risk public criticism (and loss of confidence) for each perceived failure.
27. **The Governance Review recommends that the PCC is more open about what it means by – and what it wants to achieve through – proactivity. It should make public the areas in which it intends to do this.** This might include the following, which could act as a blueprint for its activity:
- contacting those at the centre of news stories to offer its services, when it becomes aware – either through intelligence from individual Commissioners or the Secretariat, or following complaints by third parties – of issues of possible concern;
 - playing an active role in channelling prospective complaints so that they can be effectively focused on appropriate issues;
 - initiating investigations relating to possible breaches of the Code of its own volition where there are no obvious first parties who might complain (for example in cases involving payments to witnesses or criminals);
 - issuing guidance on best practice in areas that have caused public concern.
28. **The central recommendation of the Governance Review to improve clarity of purpose for the PCC is that the Commission itself should produce a document, published on its website, covering all of its aims and duties, including the specific basis for how it works proactively.**
29. A clear set of functions means that the effectiveness of the organisation can be properly tested, that it is more transparent about how it works, and that it can be held more accountable for its actions.

⁷ Only a quarter of the population supports the view that the PCC should publicise its views about published stories without first contacting the individual they feature. 58% disagreed or strongly disagreed that such an approach would be proper. The full results – which were also part of the 2010 public polling – can be accessed via http://www.pcc.org.uk/assets/111/PCC_Survey_2010.pdf.

Effectiveness

30. The PCC has increased its workload over the last 10 years without significant increases in expenditure. Its customer satisfaction ratings are consistently sound⁸. The system is not bogged down by unwieldy bureaucracy; its modest scale and relative informality mean it can move efficiently.
31. However, there is little formal analysis of effectiveness by the Commission, and so the public cannot be informed of what it is doing well, and where it needs to improve. Also, the Commission itself is not sufficiently aware of its own strengths and weaknesses.
32. The Governance Review recommends:
- **the PCC should agree a list of performance objectives every year and publicly report on whether they were achieved, and, if not, why not;**
 - **statistics should be consistently presented to enable year-on-year comparison. We welcome the initial work that has been done on this. The Commission should consider research into complaints trends, in order to establish whether there are any failings within the industry that require redress and to allow for analysis of the consequences in terms of resource and practice;**
 - **the Commission should institute a regular programme of polling public opinion on issues relating both to the PCC itself and press standards more generally;**
 - **the PCC should set up an Audit Committee, to be chaired by a senior lay Commissioner, in place of the Business Sub-Committee and with wider terms of reference. Its task will be to monitor and consider the performance of the PCC and report to the Commission (see paragraph 33);**
- **there should be an annual “awayday” for the Board and the Secretariat to discuss plans for the next year and an agreed plan of work should then be presented to the Board;**
 - **new Commissioners should be given a full induction, and be formally mentored by a colleague;**
 - **the Charter Commissioner (who is to be renamed the Independent Reviewer) should attend Commission meetings twice a year.**
33. The Audit Committee should consist of three lay Commissioners. Its core functions would be as follows:
- financial oversight. It should examine the budget and expenditure of the PCC on a six monthly basis, and meet with external auditors;
 - risk assessment. It should examine risk to the organisation and report to the Commission;
 - performance. It should have oversight of a newly-constructed Review Panel (replacing the Charter Compliance Panel, see paragraph 94). It should liaise with the panel in conducting audits of complaints files, and examining issues of concern. It should also review results of customer surveys.
34. At the moment, Commission members are active in considering standards issues when it comes to adjudicating complaints, but less so in the additional work undertaken by the institution (the pre-publication advice, the anti-harassment work, the training). This is, in theory, correct: Commissioners have adjudication as a primary role. **However, Commissioners should be better informed about the other activities undertaken by the PCC, and have input into them. The Commission should ensure that it is examining ongoing issues, and its role in them, more effectively.**

⁸ On average over the past three years, 81% of people who used the PCC’s services thought that their complaint had been dealt with “thoroughly” or “very thoroughly”. An average of 74% over the same time period considered that the overall handling of their complaint was “very satisfactory” or “satisfactory”. Anonymised survey forms are sent to all complainants whose cases fall under the terms of the Code of Practice and can be considered formally by the Commission.

Effectiveness

Continued

35. Specifically, the Governance Review recommends that:

- the Commission should be updated on a weekly basis about any proactive approaches which have been made to individuals. Commissioners can then offer input about the need for further action;
- the Commission should be updated on a weekly basis with any advisory notes circulated to the industry;
- the Commission should ensure that it discusses issues of major public concern, with a view to considering what action it might wish to take. A record of that discussion should be made public, where appropriate;
- the Commission should set up working groups to analyse and test important policy issues (the prominence of apologies; convergence; privacy; and so on). To avoid over-burdening the Secretariat, there should be no more than two functioning at any time. We welcome the fact that the PCC has recently established a group to consider online issues;
- the Commission should use complaints trends, or issues raised by working groups, to consider expanding its range of guidance to the industry on the application of the Code.

36. In 2009, the PCC made over 1600 rulings, and conducted over 1200 investigations into complaints that seemed to raise a possible breach of the Code. Not all of these cases were published, as the PCC only currently makes available complaints that are adjudicated during formal meetings, and resolved complaints.

37. For the PCC effectively to proceed with its role in maintaining and improving standards, it should do more to make public the outcomes of its rulings and the issues raised.

38. The Governance Review recommends:

- the PCC should seek to publicise as many of its rulings as possible;
- when a complaint is resolved, the summary should refer specifically to the issues raised under the terms of the Code;
- the Commission should make clear on its website where complaints have been found to have merit including: cases where it issues a critical ruling; cases where it finds that sufficient remedial action has been offered, but not accepted by the complainant; cases which are resolved following remedial action;
- the PCC should develop a secure site on which all substantive complaints could be viewed and assessed by Commission members, which would save time and money spent on mailing the weekly papers to members (see Appendix 5 for an explanation of the current complaints process).

39. The Governance Review recognises that one of the perceived virtues of the existing system is that all substantive complaints are considered by the full Commission through the circulation each week of papers which provide the details and the proposed recommended course of action on each case. Commissioners must indicate their agreement – or otherwise – to the recommendations.

40. However, the Governance Review has examined whether – in common with other regulatory bodies – the PCC might devolve the responsibility for considering straightforward complaints to the Secretariat. This would mean that cases that appear to raise no prima facie breach of the Code would be assessed by the PCC office, and a decision issued without recourse to the Commission. The office would make use of case law and principles previously established by the Commission, and this would have the advantage of showing the consistency of the PCC approach in particular areas. Should a complainant object to the office's interpretation of the case, he or she could raise concerns with the Independent Reviewer, the new title we recommend for the Charter Commissioner (see paragraph 90). The Independent Reviewer could then refer the complaint to the full Commission.

Effectiveness

Continued

41. We have noted that, at present, there is little appetite for such derogation of authority among Commissioners. However, we believe that removing from them the consideration of straightforward complaints would enable the Commission to focus on more substantive cases and, given the increasing number of complaints, may in the end prove to be necessary to streamline the process.
42. **The Governance Review recommends that the Commission institutes a pilot over the next year and keeps this option under review.**

Exceptional cases

43. If public concern is raised about exceptional issues to do with press behaviour, Commissioners should ask for the matter to be discussed at a meeting, at which the following could be considered:
- what scope there is for action by the PCC and what the purpose of that action should be;
 - whether relevant individuals, especially within the industry, should be asked to give evidence to the Commission. Steps should be taken to ensure that the Commission obtains full co-operation from all employees of publications;
 - whether individual lay Commissioners should be involved at an early stage in steering an inquiry.
44. **The Commission must ensure that it is seen fully to examine its role when serious matters arise. It should be clear about what it is able to do, and make the public aware of it. The Commission already has the power to use oral hearings should it believe this would assist its function; it should be willing to deploy this power in appropriately serious circumstances and to make public that it is doing so.**

Sanctions

45. The Governance Review has heard criticism of the PCC that it is “toothless”, because it does not impose fines. While it is not within our remit directly to consider the issue of sanctions, we wish to make some observations. In our view, the introduction of fines would not benefit the system (they could be budgeted for by major publications, but could cripple smaller titles; they would introduce confrontation into a collaborative approach that generally works well). However, **the PCC must do more to demonstrate the effectiveness of its current sanctions, and ensure that they are properly exercised and understood.** It is notable that the various actions possible by the PCC are not spelled out clearly. This “ladder of sanctions” includes:

- negotiation of an agreed remedy (apology, published correction, amendment of records, removal of article);
- publication of a critical adjudication;
- public criticism of a title by the Chairman of the PCC;
- a letter of admonishment from the Chairman to the editor;
- disciplinary action against a journalist on the back of a PCC ruling that confirms a breach of the Code;
- referral by the PCC of the editor to the publisher for disciplinary action.

46. The Governance Review has discussed with some witnesses the importance of prominence given to apologies. **More work needs to be done by the Commission to ensure both that apologies are prominently published, and that people are aware of this. A working group on this specific issue would be a positive step.** To further enhance public confidence in the system, the Governance Review also recommends:

- **the PCC should publish a document outlining the potential outcomes and sanctions on its website;**
- **the PCC should consider revealing publicly when it has admonished an editor via correspondence;**
- **the PCC should engage in more direct follow-up with editors, once a breach of the Code has been established and a ruling made. This may mean: the Chairman or Director meeting with the editor to discuss the problem; acting to ensure that practices within a newsroom have changed; inquiring – in very serious cases – about whether disciplinary action has been enforced;**
- **the PCC should make more of the fact that the Code is written into journalists’ contracts.**

47. The public should have confidence that the PCC requires the full co-operation of contributing titles into its investigations and that sanctions will be applied should such co-operation be lacking. This needs to be spelled out clearly.

48. **The Governance Review recommends that the Commission and PressBof should consider setting up a joint working group further to consider sanctions. We believe there are a range of creative ideas about how existing sanctions could be made more effective – and be seen to be so – and that these should be investigated.**

Independence

49. From the evidence we have received, it is clear that concerns about the PCC's independence rest on the following areas:

- the size and impact of the lay majority;
- the fact that serving editors sit on the PCC;
- the fact that the Code is written solely by editors;
- the role and powers of PressBof;
- appointments.

The lay majority

50. The PCC is a body of 17: 10 public members (including the Chairman), and seven editors. This lay majority has increased since 1991 from one to three. No meeting can take place without a quorum, and majority, of lay members.

51. The PCC has a greater lay majority than other similar bodies across Europe⁹. Members of the Governance Review, who had not previously witnessed meetings, were struck by the degree to which the discussion was wide-ranging, and did not follow the “party lines” of lay against editorial. This has not been properly visible to members of the public, and **the Commission should do more to reassure people about the conduct at its meetings. Publishing minutes of meetings will be helpful in this regard.**

52. The Commission is already a large body. Decision-making does not become correspondingly easier with increased numbers; indeed the opposite is more likely. While we note the suggestion – made by the Select Committee and others – that the lay representation increase further (from 10 to 12), we do not believe that this would improve the independence of the PCC in practical terms as it is already safeguarded.

53. Indeed, the Governance Review considers that there might be merit in the Board being smaller, not larger. However, we recognise that a reduction in the size of the Board would not be practical at the moment: reducing overall numbers is likely to either lessen the lay majority or reduce the participation of different branches of the industry. At this point in the development of the PCC, neither result would be satisfactory. **The Governance Review recommends that the option to reduce overall numbers – while retaining the lay majority – should be kept under review.**

54. **The Governance Review believes that the lay majority should be more visible and the experience of lay Commissioners more effectively deployed:**

- **the Chairman of the PCC should be encouraged to appoint a Deputy Chairman from among the lay members, who could give support to the Chairman during the term of his or her chairmanship. This role would underline the strength of the lay majority; it would mean there was someone available to take the chair in the absence of the Chairman; it would provide a useful sounding board for the Chairman, but should also be used as a conduit for Commissioners to pass back constructive feedback to the Chairman. We further recommend that whoever holds this post would normally be expected to take a specific interest in the audit function of the Board, to which we referred in paragraph 32. The Deputy Chairman role would lapse, unless the temporary role of Acting Chairman was made by PressBof, with the departure of the Chairman;**
- **an enhanced register, available on the PCC website, should declare not only relevant outside interests of all serving Commissioners, as before, but the rules guiding serving editors on the Commission when titles in their groups are the subject of complaints (see paragraph 56);**
- **the Board should make greater use of working groups with lay majorities to ensure that lay Commissioners contribute directly to the strategic thinking of the PCC;**
- **the Commission should consult more regularly with external experts (about, say social networking or privacy law), so that Commission members, together with the Secretariat, continue to be at the forefront of relevant thinking.**

⁹ Of the 25 European Press Councils for which information about membership is publicly available, most have a majority of industry members. Only seven (including the UK PCC) have a public majority. The UK PCC's ratio of 10:7 public to industry members places the greatest emphasis on public representation of any member of the Alliance of Independent Press Councils of Europe. Barber, Ian and Evans, Lewis, 'Review of the New Zealand Press Council' (2007), available at http://www.presscouncil.org.nz/articles/press_council_review.pdf. More information about the Alliance of Independent Press Councils of Europe can be found at www.aijpe.net.

Independence

Continued

Serving Editors on the PCC

55. Having representation from the industry on the Board is an acceptable feature of self-regulation, provided that independence is safeguarded. Editors bring with them current experience of an evolving industry and the weight of peer judgement against those who have breached the Code.
56. No conflict of interest should arise from editors' involvement on the Commission. The public should be made aware that editors do not take part in any consideration of complaints against titles with which they are connected. **The Governance Review recommends that the Commission publish an improved register of interests relating to editors' conflicts. This should make clear the criteria on which they remove themselves from considering complaints. It should state that editors do not consider complaints relating to titles over which they exercise editorial control, with which they have close links (e.g. sister titles), and which are under the control of their Editor-in-Chief. The Commission should also publish a full list of the relevant titles.**

The Editors' Code of Practice Committee

57. There is considerable criticism of the Editors' Code of Practice Committee for the fact that it does not include lay representation. There is also confusion between the Code Committee and the PCC itself – it is not unusual to read that the Chairman of the Code Committee is Chairman of the PCC.
58. The Governance Review sees benefit in the fact that editors are responsible for the wording of their own Code: the industry takes ownership of the rules by which it should abide and then allows an independent organisation to enforce them.
59. It is essential, however, to show there is an effective lay contribution to the workings of the Code. It is also necessary for the system to be clearly signposted, so individuals can understand who does what.

60. The Governance Review recommends:

- **greater transparency in the relationship between the PCC and the Code Committee;**
- **the Chairman and the Director of the PCC should act as more than observers at Code Committee meetings; they should represent the views of the Commission at the table;**
- **a full report should be made by the PCC Chairman to the Commission following every meeting;**
- **before every review of the Code by the Code Committee, the Commission – perhaps through a devolved working group – should consider recommending changes. The Code Committee should respond formally to the Commission explaining their response, including the reasons why any suggestions have been rejected;**
- **the PCC should be consulted on any proposed changes to the Code before it is asked to ratify them.**

We welcome the efforts that have been made to clarify the separate roles of the PCC and the Editors' Code Committee, including the establishment of the Code Committee website and mailing list and these efforts should continue.

Press Standards Board of Finance

61. As with the Code Committee, the Governance Review believes that greater clarity about the role of PressBof in the public domain would help all parties. **Accordingly, we recommend that PressBof considers hosting its own website in which the following are explained:**
- **the role of PressBof and who serves on the organisation;**
 - **how the funding is calculated; and a list of publishers who subscribe;**
 - **how PressBof works with the Commission;**
 - **the rules by which the independence of the Commission is sustained and guaranteed.**
62. One responsibility of PressBof is to guarantee the continued funding of the PCC. Payment of a levy by industry members to PressBof is the most visible sign of voluntary adherence to the system of self-regulation. A failure to continue funding the PCC demonstrates a failure to support the system. The Governance Review recognises that a publisher who persistently withholds funding for the PCC should be considered outside the self-regulatory process.

Independence

Continued

63. In these circumstances, it would be a matter for the funding body to seek to restore relations with the publisher. It should give every reasonable opportunity for payment to be restored. Should this not happen, the Commission should be informed of the position. Following consultation with the Commission, and only as a last resort, PressBof could then make clear to the publisher that defaulting on payment would mean it was no longer part of the system. The Commission would as a result formally decline to consider complaints about the relevant titles, or offer guidance to their editors.

64. **PressBof should also examine how it can encourage greater industry participation in the system, in a way that does not compromise the PCC's independence. For example, the industry could take on a more active role in working with the PCC to maintain or enhance professional standards. This might include greater engagement with the PCC in the training of journalists, and a more public recognition of issues affecting the industry and causing public concern. Editors across the industry should be encouraged to consider referring specific ethical issues to the PCC, and asking for its guidance.**

Appointments Chairman

65. The Chairman of the PCC is appointed by PressBof. While it is a feature of the self-regulatory system that an industry appointee heads the organisation, the independence of the position may already be open to question.

66. **To enhance independence, and the perception of it, the Governance Review recommends:**

- when a new appointment is being made, PressBof should consult with Commissioners at an early stage of the process, to take into consideration the Board's perspective on the needs of the PCC, and the likely skills and attributes of a future Chairman, as well as to receive suggestions as to possible candidates;
- the specifics of the contract should be shared with the Board of the PCC, as required by the Companies Act (2006);
- PressBof should consult Commissioners prior to appointing or otherwise the Chairman for a second term.

67. An effective working relationship between the Chairman and the Director of the PCC is crucial. **When a new Chairman is appointed, PressBof should ensure there is an opportunity at the earliest stage for the Chairman and Director to discuss their respective roles.**

Lay Commissioners

68. The process of appointment for lay members of the PCC has, in the past, not been sufficiently clear, and has not been previously codified to a proper extent. For the last round of appointments of lay members, the following procedure was followed:

- the post was openly advertised, free of charge, by various titles (national, regional and specialist) across the industry;
- the Director of the PCC made an initial judgement about the merits of candidates and submitted a long list;
- lay Commissioners each examined the applications of around 30 candidates, and put forward those they felt appropriate;
- these candidates were interviewed by a panel consisting of the PCC Chairman, a member of the Appointments Commission, and the PCC Director;
- this panel made recommendations to the Appointments Commission, which then made the appointment.

69. The Appointments Commission is a body of five individuals: the PCC Chairman; the Chairman of PressBof (the only industry member); and three public figures. It is self-selecting, with its Chairman and the Chairman of PressBof nominating new members when vacancies occur.

70. Lay Commissioners are given three-year terms, which can be extended, and indeed have been extended for several years. There is no formal process to monitor this.

71. **The Governance Review recommends that this process be tightened and made more accountable.** In our view, the current system relying on the Appointments Commission is not sustainable. The effect of it has been to disconnect the system of appointments from the needs of the Commission itself. This has meant that due diligence about the merits of each appointment has been harder to achieve.

Independence

Continued

72. The Governance Review recommends:

- the Appointments Commission should be replaced by a Nominations Committee of the Commission;
- the Nominations Committee should consider all appointments to the Commission;
- this sub-committee should consist of four lay Commissioners, including the Chairman of the PCC, together with the Chairman of PressBof. It would be chaired by a lay Commissioner, and not by the Chairman of the PCC;
- the posts would still be openly advertised;
- the Nominations Committee would pay due regard to the needs of the PCC as a whole, including backgrounds and experience of appointees;
- the Nominations Committee would make appointments through a properly constituted interview process, including the involvement in the recruitment process of an independent, external panel member with no connection to the PCC to ensure standards are properly upheld;
- the appointment of a lay member would be for a fixed three-year period, renewable once;
- proper consideration of performance over the three-year period by the Nominations Committee before reappointment for a second term.

Editorial Commissioners

73. Industry members are currently nominated by their respective trade bodies via PressBof. They are then ratified by the Appointments Commission, before they join the Commission. There are no fixed terms for editors sitting on the PCC, as they are – in effect – unpaid volunteers.

74. The current system means that these appointments are effectively only rubber-stamped, as candidates are placed before the Appointments Commission, who have no clear understanding of the needs of the Board.

75. It is also noticeable that, of the editors on the Commission, none is currently from national daily newspapers (although national dailies have been represented in the recent past). There does not appear to have been an editor of a daily broadsheet newspaper for several years. Workload pressures may well be an issue, but wider participation from editors is important for the future of self-regulation.

76. The Governance Review believes that editorial service on the Commission should become more widespread, and be regarded as a duty of editors. It calls upon PressBof to take active steps to encourage this. This could include the advertisement of the posts. For national editors (of which there are a small number) a rota system could be established, to guarantee that all national editors eventually serve on the PCC.

77. We make the following specific recommendations about editorial appointments:

- the Nominations Committee should review the needs of the Board in advance of any appointment, and provide information to PressBof. Efforts should be made to ensure that the regions of the UK are properly and widely represented. There should also be wide representation of publishers and types of publication;
- PressBof should consider this information when it nominates editorial members. The Nominations Committee will then be asked to approve the nominations. In the event that approval is not granted, the Nominations Committee should provide full reasons to PressBof and to the Commission;
- there should be fixed terms for editorial appointments of three years, subject to extension for a further three years by the approval of the Nominations Committee, in consultation with PressBof. However, the Governance Review recognises that this is a fluid industry and editors can change their jobs. This would affect their position on the Commission. When the status of an editorial member of the Commission changes, the Nominations Committee should liaise with PressBof about the need for a replacement.

Independence

Continued

78. The Governance Review does not support the idea that it should be journalists, rather than editors, who sit on the PCC. The Code has at its heart editorial responsibility, and it is right that the industry involvement is formally confined to those who are ultimately answerable to the Code.
79. This also means that the industry members should be from serving editors and not retired editors. In the current media landscape in which technological change is fast-moving, and the industry is being forced to develop all the time, the need for the involvement of those actively engaged in the business is more pressing.
80. The Governance Review recognises the value of liaison with journalists below editor level, which takes place on the PCC's training programme. However, the Commission should do more: **Board working groups (as referred to in paragraph 35) should consult journalists as part of increasing their understanding of press issues.**

Termination

81. For the PCC to be truly independent, it must retain the right to remove a Board Member – whether editorial or lay – in circumstances where the Board Member is failing properly to fulfil his/her duties and responsibilities. This should be voted upon by the full Commission, and require a two-thirds majority. Such a resolution can only be passed if the member concerned has been given 14 days' notice of the resolution and the reasons, plus the opportunity to offer a response.

Transparency

82. The Commission – as represented by its new Chairman and Director – has committed publicly to improving its transparency. The PCC does make a lot of information about itself available, but it is not clear that people outside the organisation understand what the PCC does and how it does it. We were struck by the evidence from many witnesses, including those connected to the industry, who were misinformed about the Commission.
83. We welcome the fact that the PCC has now appointed a Director of Communications, with the brief to increase awareness of PCC work, and hope that this will also represent a shift towards fuller disclosure by the organisation.
84. This should also include full information about the relationships between the key bodies in the system: the Commission; the Code Committee; and PressBof. Although the latter two organisations are outside of the scope of this report, we urge the industry to work harder in making public how the system works.
85. **The following steps need to be taken by the PCC to increase transparency (some of which have begun prior to this report):**
- the PCC should publish the minutes of its meetings;
 - the PCC should improve its register of interests to include information about the rules guiding editorial members when complaints are made against their own titles;
 - the PCC should ensure that statistical information is consistent and clear;
 - PressBof should explore ways of clarifying the funding system, making clear the basis on which funding is calculated and which publishers pay for the system;
 - the PCC should seek approval that the website satisfies Plain English requirements. Efforts should be made to establish a regular audit (involving informed external observers, such as victim support groups) of how clear and usable the website is.
86. The Governance Review wishes to set down the duty of the Commission to be transparent and open wherever it is reasonably possible. **It recommends that the Commission draws up a short protocol on how it approaches this duty and what material – in connection with the complaints handling process – it will make available on request.** This will act as public commitment to openness, and a set of principles against which it can be tested.
87. The Governance Review does not consider that there are grounds for the PCC to be formally subject to the Freedom of Information Act, as it is not a publicly-funded body, and it deals with confidential, personal information.

Accountability

88. Any complainant can currently challenge the handling of a complaint by appealing to the Charter Commissioner (an independent lay figure). He has the power to make recommendations to the Commission that a complaint should be reconsidered. This has led to the outcomes of complaints being altered on several occasions. However, the Charter Commissioner can make no judgement on the substance of a case, but comment only on process.
89. **The Governance Review recommends that this process of accountability should be strengthened.** However, we do not believe that the decision of 17 members should be allowed to be overturned by one individual.
90. The value in the Charter Commissioner has been his role as advocate for the rights of the complainant. He is a lay figure, independent from the Commission, and can examine impartially whether a case has been fairly handled. **This role should continue, and his title should become the Independent Reviewer, which would have clearer meaning to the public. His functions should be augmented to allow him to assess objections about substance as well as process.** If he feels that there are substantive reasons for questioning a decision, he should refer the complaint back to the Commission for reconsideration. The Commission would then either alter its decision, or give reasons for upholding it.
91. This new role will ensure that objections are rigorously answered before a ruling is finalised. This service should remain for complainants only.
92. **The Governance Review, which believes that appointments should not exceed a set period in order to ensure independence, recommends that the next Independent Reviewer is offered a single-term contract of no more than six years.**
93. The Charter Compliance Panel (currently in abeyance pending the Governance Review) was originally instituted to conduct an audit of random files, examining the handling of complaints. This led to a series of recommendations about office practice. The panel consisted of the Charter Commissioner and at least one other figure (appointed by the Appointments Commission). One of the members could be connected to the industry, but industry representation could not be in the majority. The panel was so named because it was asked to assess cases against the “Complainants’ Charter”¹⁰, a broad document setting out the rights of the complainant.
94. **The Governance Review recommends that the Charter Compliance Panel should be renamed the Review Panel.** It will report to the Audit Committee. It will consist of the Independent Reviewer and no more than two other external individuals. Its role will be:
- to conduct audits of randomly-selected complaints files to monitor performance;
 - to consider complaints files in specific regard to issues of interest (such as the prominence of apologies, concerns about headlines, cases involving children). The scope of such reviews should be decided by the panel, or follow the suggestion of the Audit Committee, and should link where appropriate to any business of the PCC’s working groups.
95. **The Independent Reviewer and the Review Panel should be appointed by the Nominations Committee. Members of the Review Panel should be given three-year contracts, renewable once.**

¹⁰ This is available at <http://www.pcc.org.uk/complaint/charter.html>

Accountability

Continued

The Chairman and Director

96. It is important that there is a clear division of responsibilities between the two figures. In practical terms, the Director is responsible for the running of the Secretariat, and is accountable to the Chairman who is responsible for the Board.

97. The Governance Review believes that the current Chairman and Director have established a good and defined working relationship. We commend the introduction of an annual appraisal of the Director by the Chairman, in which performance and role can be discussed.

The Chairman and the Board

98. At present, there is no clear mechanism by which the Chairman of the PCC is specifically held accountable to the Commission. Nor is there a process for the Commission to assess its own performance. Increased accountability in this area will increase confidence in the organisation.

99. **The Governance Review proposes that:**

- **the Chairman should determine how individual Board performance is to be assessed;**
- **discussion of overall Board performance should be led by the Chairman at the Board's annual awayday. This discussion could follow the circulation of a questionnaire to members – both lay and editorial – about their experience over the year;**
- **during this event – in line with good Board practice – the performance of the Chairman should be discussed in his or her absence, in a session led by the Deputy Chairman, or a senior lay Commissioner;**
- **every three years, consideration should be given to using an external facilitator for this process.**

Practical implications

We discuss here briefly the practical consequences of our recommendations, which fall into two areas.

Articles of Association

The Commission, in seeking to enact the Governance Review's recommendations, will need to ensure the Articles of Association are updated to accommodate them.

Consideration will need to be given to changes in the following areas:

- the appointment of the Chairman;
- the establishment of the Nominations Committee in place of the Appointments Commission, and its role in appointments;
- the length of the service of Commissioners and the process of reappointment;
- the removal of Board members;
- the modified role of the Independent Reviewer and the Review panel;
- the establishment of the Audit Committee.

Resources

The Governance Review is conscious of the resource issues raised by its recommendations. It also takes note of the wider financial context of structural changes in the industry (the shift to online publication, with its revenue implications) and a global recession, both of which have an impact on publishers' resources. It is aware that, while the industry has provided a considerable amount of funding to the PCC over the last 20 years, the budget has not increased significantly in real terms over that time.

It is not the purpose of this review to turn the Commission into an unwieldy or bureaucratic body. It will be for the Commission and PressBof to ensure that changes can be made appropriately and efficiently. We make the following points in this area:

- while we place greater responsibilities on the shoulders of the Commissioners, we do not consider that they are significantly weightier than equivalent roles on other Boards. Our recommendations should carry no implications in financial terms. Their annual honorarium of £11.25k should remain as it is now, subject to periodic review for inflation;
- we recommend the appointment of a lay Deputy Chairman from within the Board. We recommend that this role carries with it no additional remuneration;
- there is likely to be an increase in work for the Secretariat in supporting the Board. An increase in the number of published decisions, and the possible consideration of cases by the Commission on a secure website, will likely require additional resource in terms of extra workload and the need for technological support. The PCC and PressBof will have to consider how this can be met.

Appendix one

Individuals consulted about the complaints procedures of other regulatory and self-regulatory bodies

1. Tony Close, Senior Standards Manager, Ofcom
2. Maria Donde, Fairness Case Manager, Ofcom
3. Keith Jones, Head of Communications and Complaints, BBC Audience Services
4. Alison Hastings, BBC Trustee for England; PCC Consultant and a former public Commission member
5. Fran O'Brien, Head of Editorial Standards, BBC Trust
6. Joanne Poots, Head of Complaints, Advertising Standards Authority
7. Vena Raffles, Head of Investigations, Advertising Standards Authority
8. Fraser Steel, Head of Editorial Complaints Unit, BBC

Appendix two

List of witnesses who gave evidence to the Governance Review panel

1. Stephen Abell, Director, Press Complaints Commission
2. Matti Alderson, public Commission member
3. Ian Beales, Secretary, Editors' Code of Practice Committee
4. Sir David Bell, Chair, Board of Trustees, Media Standards Trust
5. Guy Black, Chairman, Press Standards Board of Finance
6. Baroness Buscombe, Chairman, Press Complaints Commission
7. Matthew Cain, Media Standards Trust
8. Jonathan Coad, Head of Litigation, Swan Turton
9. Sir Brian Cubbon GCB, former public Commission member and former PCC Charter Commissioner
10. Professor Chris Frost, Chair of the Ethics Council, National Union of Journalists
11. Mike Hall, former Member of Parliament for Weaver Vale and former member of the Culture, Media and Sport Select Committee
12. John Home Robertson, public Commission member
13. Mike Jempson, Director, Mediawise
14. Alan Keen, Member of Parliament for Feltham and Heston and member of the Culture, Media and Sport Select Committee
15. Anthony Longden, editorial Commission member
16. Martin Moore, Director, Media Standards Trust
17. David Newell, Director, Newspaper Publishers Association; Director, Newspaper Society and member of PressBof
18. Julian Petley, Chair, Campaign for Press and Broadcasting Freedom
19. Professor Robert Pinker CBE, PCC Consultant; former Acting Chairman of the PCC and former public Commission member
20. Peter Preston, media commentator and former Editor of *The Guardian*
21. Jim Raeburn OBE, Secretary and Treasurer, Press Standards Board of Finance
22. Esther Robertson, public Commission member
23. Alan Rusbridger, Editor-in-chief, *The Guardian*
24. Eve Salomon, public Commission member
25. Simon Sapper, public Commission member
26. Lord Wakeham PC DL, former PCC Chairman
27. John Whittingdale OBE, Member of Parliament for Maldon and Chairman of the Culture, Media and Sport Select Committee
28. Sir Michael Willcocks KCB CVO, PCC Charter Commissioner
29. Peter Wright, editorial Commission member

Appendix three

Summary of recommendations

Clarity of purpose

1. The Commission should take responsibility for setting out what its role entails and make clear the areas of activity against which it should be judged (paragraph 21);
2. The Commission should make plain how it considers standards issues. The role of maintaining standards, under the Code, should cut across the organisation as a whole (paragraph 23);
3. The Commission should not change its name to refer specifically to standards. Its role in considering standards should be made apparent both in terms of its public statements and actions in the context of enforcing the Code (paragraph 23);
4. The PCC should be more open about what it means by – and what it wants to achieve through – proactivity. It should make public the areas in which it intends to do this (paragraph 27);
5. The Commission should produce a document, published on its website, covering all of its aims and duties, including the specific basis for how it works proactively (paragraph 28).

Effectiveness

General organisational recommendations

6. The PCC should agree a list of performance objectives every year and publicly report on whether they were achieved, and, if not, why not (paragraph 32);
7. Statistics should be consistently presented to enable year-on-year comparison. The Commission should consider research into complaints trends, in order to establish whether there are any failings within the industry that require redress and to allow for analysis of the consequences in terms of resource and practice (paragraph 32);
8. The Commission should institute a regular programme of polling public opinion on issues relating both to the PCC itself and press standards more generally (paragraph 32);
9. The PCC should set up an Audit Committee, to be chaired by a senior lay Commissioner, in place of the Business Sub-Committee and with wider terms of reference (paragraph 32);
10. There should be an annual “awayday” for the Board and the Secretariat to discuss plans for the next year and an agreed plan of work should then be presented to the Board (paragraph 32);

11. New Commissioners should be given a full induction, and be formally mentored by a colleague (paragraph 32);
12. The Charter Commissioner (who is to be renamed the Independent Reviewer) should attend Commission meetings twice a year (paragraph 32).

Role of Commissioners

13. Commissioners should be better informed about activities (such as the pre-publication advice, anti-harassment work and training) undertaken by the PCC and have input into them (paragraph 34);
14. The Commission should ensure that it is examining ongoing issues, and its role in them, more effectively (paragraph 34);
15. The Commission should be updated on a weekly basis about any proactive approaches which have been made to individuals (paragraph 35);
16. The Commission should be updated on a weekly basis with any advisory notes circulated to the industry (paragraph 35);
17. The Commission should ensure that it discusses issues of major public concern, with a view to considering what action it might wish to take. A record of that discussion should be made public, where appropriate (paragraph 35);
18. The Commission should set up working groups to analyse and test important policy issues (paragraph 35);
19. The Commission should use complaints trends, or issues raised by working groups, to consider expanding its range of guidance to the industry on the application of the Code (paragraph 35).

Complaints

20. The PCC should seek to publicise as many of its rulings as possible (paragraph 38);
21. When a complaint is resolved, the summary should refer specifically to the issues raised under the terms of the Code (paragraph 38);
22. The Commission should make clear on its website where complaints have been found to have merit including: cases where it issues a critical ruling; cases where it finds that sufficient remedial action has been offered, but not accepted by the complainant; cases which are resolved following remedial action (paragraph 38);
23. The PCC should develop a secure site on which all substantive complaints could be viewed and assessed by Commission members. A pilot should be instituted over the next year and kept under review (paragraphs 38 and 42).

Appendix three

Continued

Exceptional cases

24. The Commission must ensure that it is seen fully to examine its role when serious matters arise. It should be clear about what it is able to do, and make the public aware of it. The Commission already has the power to use oral hearings should it believe this would assist its function; it should be willing to deploy this power in appropriately serious circumstances and make public that it is doing so (paragraph 44).

Sanctions

25. The PCC must do more to demonstrate the effectiveness of its current sanctions, and ensure that they are properly exercised and understood (paragraph 45);
26. The Commission needs to do more work to ensure both that apologies are prominently published, and that people are aware of this. A working group on this specific issue would be a positive step (paragraph 46);
27. The PCC should publish a document outlining the potential outcomes and sanctions on its website (paragraph 46);
28. The PCC should consider revealing publicly when it has admonished an editor via correspondence (paragraph 46);
29. The PCC should engage in more direct follow-up with editors, once a breach of the Code has been established and a ruling made (paragraph 46);
30. The PCC should make more of the fact that the Code is written into journalists' contracts (paragraph 46);
31. The Commission and PressBof should consider setting up a joint working group further to consider sanctions. We believe there are a range of creative ideas about how existing sanctions could be made more effective – and be seen to be so – and that these should be investigated (paragraph 48).

Independence

The lay majority

32. The Commission should do more to reassure people about the conduct of its meetings (paragraph 51);
33. The option to reduce the overall numbers of the Board – while retaining the lay majority – should be kept under review (paragraph 53);
34. The lay majority should be more visible and the experience of lay Commissioners more effectively deployed (paragraph 54);

35. The Chairman of the PCC should be encouraged to appoint a Deputy Chairman from among the lay members, who could give support to the Chairman during the term of his or her chairmanship (paragraph 54);
36. An enhanced register, available on the PCC website, should declare not only relevant outside interests of all serving Commissioners, as before, but the rules guiding serving editors on the Commission when titles in their groups are the subject of complaints (paragraph 54);
37. The Board should make greater use of working groups with lay majorities to ensure that lay Commissioners contribute directly to the strategic thinking of the PCC (paragraph 54);
38. The Commission should consult more regularly with external experts so that Commission members, together with the Secretariat, continue to be at the forefront of relevant thinking (paragraph 54).

Serving editors on the PCC

39. The Commission should publish an improved register of interests relating to editors' conflicts. This should make clear the criteria on which they remove themselves from considering complaints. It should state that editors do not consider complaints relating to titles over which they exercise editorial control, with which they have close links (e.g. sister titles), and which are under the control of their Editor-in-Chief. The Commission should also publish a full list of the relevant titles (paragraph 56).

The Editors' Code of Practice Committee

40. There should be greater transparency in the relationship between the PCC and the Code Committee (paragraph 60);
41. The Chairman and the Director of the PCC should act as more than observers at Code Committee meetings; they should represent the views of the Commission at the table (paragraph 60);
42. A full report should be made by the PCC Chairman to the Commission following every meeting (paragraph 60);
43. Before every review of the Code by the Code Committee, the Commission – perhaps through a devolved working group – should consider recommending changes. The Code Committee should respond formally to the Commission explaining their response, including the reasons why any suggestions have been rejected (paragraph 60);
44. The PCC should be consulted on any proposed changes to the Code before it is asked to ratify them (paragraph 60).

Appendix three

Continued

Press Standards Board of Finance

45. PressBof should consider hosting its own website in which the following are explained: the role of PressBof and who serves on the organisation; how the funding is calculated; and a list of publishers who subscribe; how PressBof works with the Commission; the rules by which the independence of the Commission is sustained and guaranteed (paragraph 61);
46. PressBof should examine how it can encourage greater industry participation in the system, in a way that does not compromise the PCC's independence (paragraph 64);
47. Editors across the industry should be encouraged to consider raising specific ethical issues with the PCC, and asking for its guidance (paragraph 64).

Appointments: PCC Chairman

48. When a new appointment is being made, PressBof should consult with Commissioners at an early stage of the process, to take into consideration the Board's perspective on the needs of the PCC, and the likely skills and attributes of a future Chairman, as well as to receive suggestions as to possible candidates (paragraph 66);
49. The specifics of the contract should be shared with Board of the PCC, as required by the Companies Act 2006 (paragraph 66);
50. PressBof should consult Commissioners prior to appointing or otherwise the Chairman for a second term (paragraph 66);
51. When a new Chairman is appointed, PressBof should ensure there is an opportunity at the earliest stage for the Chairman and Director to discuss their respective roles (paragraph 67) .

Appointments: Lay Commissioners

52. The appointments process for appointing lay Commissioners should be tightened and made more accountable (paragraph 71);
53. The Appointments Commission should be replaced by a Nominations Committee of the Commission which should consider all appointments to the Commission (paragraph 72);

54. An independent, external panel member with no connection to the PCC should be involved in the recruitment process to ensure standards are properly upheld (paragraph 72);
55. The appointment of a lay member should be for a fixed three-year period, renewable once (paragraph 72).

Appointments: Editorial Commissioners

56. Editorial service on the Commission should become more widespread, and be regarded as a duty of editors. PressBof should take active steps to achieve this (paragraph 76);
57. The Nominations Committee should review the needs of the Board in advance of any appointment, and provide information to PressBof. Efforts should be made to ensure that the regions of the UK are properly and widely represented. There should also be wide representation of publishers and types of publication (paragraph 77);
58. PressBof should consider this information when it nominates editorial members. The Nominations Committee will then be asked to approve the nominations. In the event that approval is not granted, the Nominations Committee should provide full reasons to PressBof and to the Commission (paragraph 77);
59. There should be fixed terms for editorial appointments of three years, subject to extension for a further three years by the approval of the Nominations Committee, in consultation with PressBof. When the status of an editorial member of the Commission changes, the Nominations Committee should liaise with PressBof about the need for a replacement (paragraph 77);
60. Board working groups should consult journalists as part of increasing their understanding of press issues (paragraph 80).

Appendix three

Continued

Transparency

61. The PCC should publish the minutes of its meetings (paragraph 85);
62. The PCC should improve its register of interests to include information about the rules guiding editorial members when complaints are made against their own titles (paragraph 85);
63. The PCC should ensure that statistical information is consistent and clear (paragraph 85);
64. PressBof should explore ways of clarifying the funding system, making clear the basis on which funding is calculated and which publishers pay for the system (paragraph 85);
65. The PCC should seek approval that the website satisfies Plain English requirements. Efforts should be made to establish a regular audit (involving informed external observers, such as victim support groups) of how clear and useable the website is (paragraph 85);
66. The Commission should draw up a short protocol on how it approaches its duty of transparency, setting out what material – in connection with the complaints handling process – it will make available on request (paragraph 86).

Accountability

The Charter Commissioner and Charter Compliance Panel

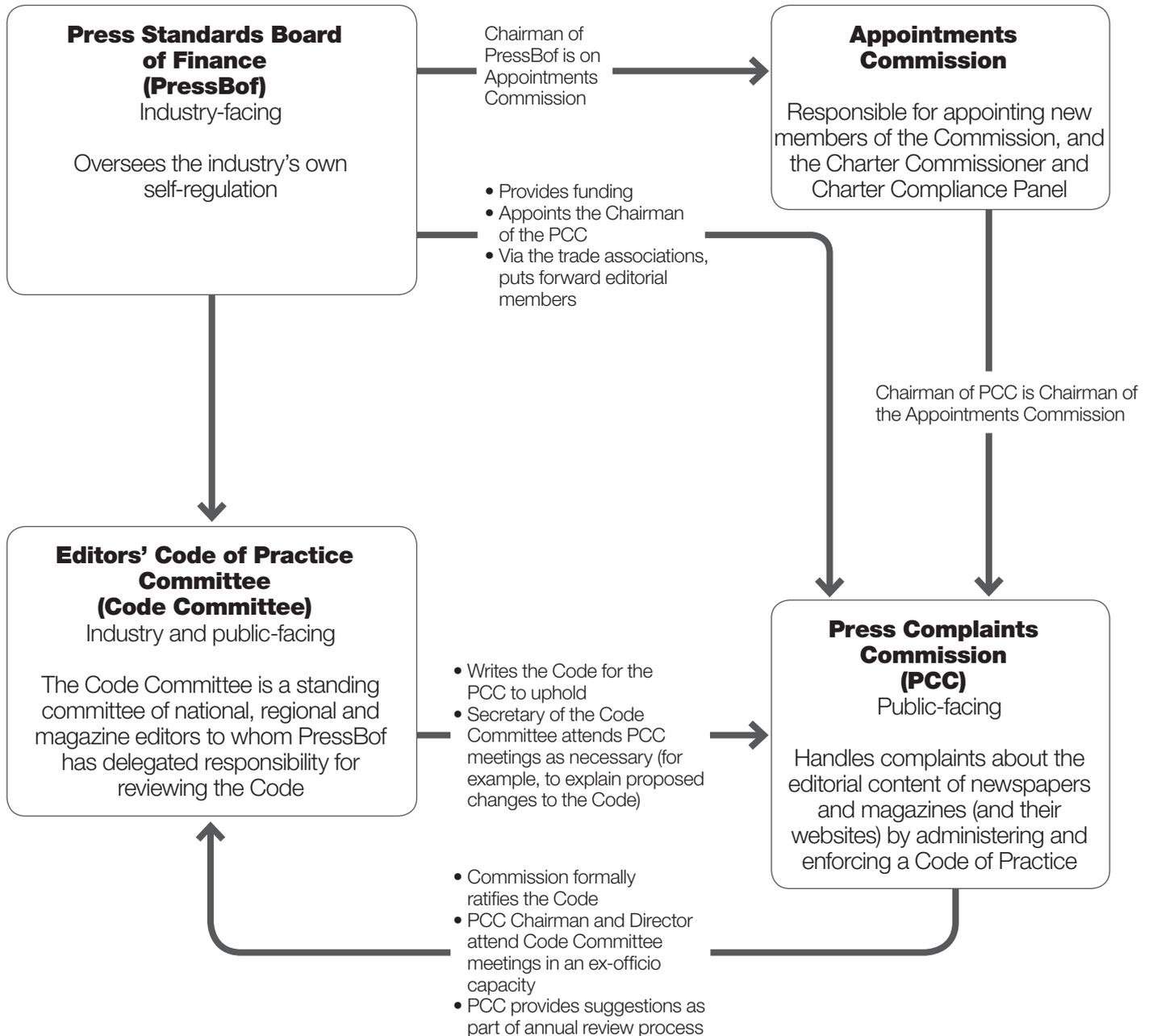
67. The process of accountability as currently embodied in the role of the Charter Commissioner should be strengthened (paragraph 89);
68. The role of the Charter Commissioner should continue, and his title should become the “Independent Reviewer”, which would have clearer meaning to the public. His functions should be augmented to allow him to assess objections about substance as well as process (paragraph 90);
69. The next Independent Reviewer should be offered a single-term contract of no more than six years (paragraph 92);
70. The Charter Compliance Panel should be renamed the Review Panel (paragraph 94);
71. The Independent Reviewer and the Review Panel should be appointed by the Nominations Committee. Members of the Review Panel should be given three-year contracts, renewable once (paragraph 95).

The Chairman and the Board

72. The Chairman should determine how individual Board performance is to be assessed (paragraph 99);
73. Discussion of overall Board performance should be led by the Chairman at the Board’s annual awayday (paragraph 99);
74. During this event – in line with good Board practice – the performance of the Chairman should be discussed in his or her absence, in a session led by the Deputy Chairman, or a senior lay Commissioner (paragraph 99);
75. Every three years, consideration should be given to using an external facilitator for this process (paragraph 99).

Appendix four

Diagram of the press self-regulatory system



Appendix five

The current complaints-handling process

1. When a complaint comes into the PCC, it is assessed – usually within 24 hours – to see whether it raises a possible issue under the terms of the Code. Complaints staff will work with the complainant to help establish this.
2. If the complaint falls under the terms of the Code, it is considered in one of two categories: the complaint appears to raise no prima facie breach of the Code, and the Commission is asked to consider the matter formally; the complaint appears to raise a prima facie breach of the Code and the complaint is investigated. If the complaint falls outside the terms of the Code, the complaints office will explain the reasons and suggest alternative courses of action. For example, if a complaint is about an advert, the PCC will write to the Advertising Standards Authority on behalf of the complainant.
3. When there appears to be no prima facie breach of the Code, the Commission is presented with a full summary of the case and a recommended decision. Commissioners then consider the complaint. If they all endorse the recommendation, the decision is sent out to the complainant and editor. If Commission members do not agree, either an amended decision is formulated, or the complaint is investigated.
4. During an investigation, a complaints officer seeks to establish the facts of the case and – where appropriate – to mediate a settlement on behalf of the complainant. One important role for a complaints officer is to advocate on behalf of the complainant, and seek to obtain desired remedial action. If the complaint is resolved to the complainant's satisfaction, the PCC publishes a summary of the resolution.
5. Sometimes the editor makes an offer, which is not accepted by the complainant. Sometimes, the editor defends publication and argues that the Code has not been breached. The complaints officer then ensures that all of the relevant information on the case has been obtained, and the investigation conducted fully. When there has been a likely outstanding breach of the Code, the complaint is taken to the next Commission meeting for discussion. If the case raises an important point of principle, it will also be considered at a meeting.
6. The remaining cases are circulated via correspondence, with a recommended decision (either that a breach of the Code has been remedied, or that there has been no breach of the Code). Commissioners either agree or amend the decision, or can ask for it to be brought for discussion at the meeting. The majority of cases are considered on a weekly basis, rather than at meetings.
7. When the Commission finds an unresolved breach of the Code, it issues a critical adjudication. This has to be carried in full and with due prominence by the offending newspaper, as required by the Code of Practice¹⁰. The PCC also publicises the decision on its website, and will talk publicly about what went wrong and what lessons can be learned in future.

¹⁰ The Preamble to the Editors' Code of Practice states: "Any publication judged to have breached the Code must print the adjudication in full and with due prominence, including headline reference to the PCC" (last ratified by the PCC in September 2009 and available at http://www.pcc.org.uk/assets/111/Code_A4_version_2009.pdf).