

NUJ evidence to the PCC review 2009/2010

The National Union of Journalists is the largest trade union of journalists in the UK representing approximately 40,000 journalists in the UK, Ireland and worldwide. Of these approximately 9,000 work in newspapers and agencies a further three thousand in magazines. In addition there are approximately 8,000 freelance members, many of whom earn all or part of their income from newspapers and magazines.

The NUJ was formed in 1907 and is mainly concerned with members pay and conditions of work, but of course this includes professional ethics and a substantial part of the NUJ's work concerns professional practice and ethics. The NUJ Ethics Council offers advice to members, produces guidelines and considers complaints.

The NUJ has always been involved in the professional concerns of members introducing its code of conduct for journalists into the UK in 1936. This was significantly amended in the early seventies to produce a code that is recognisable in the modern NUJ code and the PCC's own code of practice. The NUJ also led calls for the establishment of the 1947 Royal Commission that recommended the setting up of a General Council of The Press.. The NUJ had to campaign for the formation of this body in 1953, the forerunner of the Press Council. The NUJ became concerned about the performance of the Press Council and left it in the early 1980s, setting up its own Ethics Council charged with responsibility for developing the professional life of the union and promoting journalistic ethics among the members about as well as policing the union's Code of Conduct by taking complaints from the public. Following serious moves to reform the Press Council, the NUJ rejoined in 1989, just as Calcutt reported leading to the scrapping of the Press Council and the creation of the PCC.

Views on the PCC

The NUJ was involved in initial discussions at the Press Council about the possible structure of a new Press Complaints Commission, but the union was excluded very early in the process of developing a constitution and working practices for the new body.

The NUJ pointed out at the time that the proposed constitution was not based on the principle of supporting press freedom and that this would seriously weaken the new body. The NUJ's view was that a complaints-only body would not have sufficient integrity to combat all the pressure placed on it. The PCC accepted in 1994 at least part of this argument and agreed that press freedom is important but it still does not have a serious campaigning role, and in the NUJ's view this inhibits the development of strong journalistic ethics. The NUJ is also concerned that the PCC is an employers-only body, with the trade represented only by editors. Although the number of lay members on the PCC has now increased to become a majority, the NUJ is still concerned that the only professional view given to the Commissioners comes from editors who, whilst being responsible for the journalism of their newspapers, are also responsible for the commercial side of publishing as well as management of editorial staff.

The NUJ considers it critical that the day-to-day practitioners of journalism and their representative body - bringing a wider view of journalistic practice than any individual could manage - should be involved in discussions about press freedom, journalistic ethics and their

policing. It is clear from case after case that the PCC has dealt with that editors are unwilling or unable to articulate the pressures placed on journalists that can have a detrimental effect on journalism in the UK. The most spectacular of these was the News of the World phone tapping scandal, but it is certainly not the only case where the approaches of newspapers, their editors, proprietors, journalists, the law and the establishment have all been different and sometimes oppositional.

The same points apply to the PressBof Code Committee, which is made up solely of editors. Not surprisingly this committee consistently draws up a code to suit the needs of publishers and their editors. Whilst this has led to a code that can be portrayed as strongly protecting the rights of the public, in fact in operation its weaknesses are constantly exposed, leading many people to believe that the PCC is a paper tiger. Whilst the NUJ accepts that no code will ever be perfect and that changing norms and values will inevitably mean a changing code, the Code Committee needs to throw its net wider, not just in the welcome consultation process, but in the production of a code from a wider base of experience..

The PCC has refused to support the notion of a 'conscience clause' for journalists, saying that this is an industrial matter over which it has no jurisdiction, but has proposed that the Code of Practice should be written into contracts of employment. This contradiction is also a matter of concern for the NUJ. If journalists are to face potential disciplinary action and possible dismissal because of breaches of a code, then they should be represented on the Code Committee and have a say in what it contains and how it operates. The NUJ believes journalists should be responsible for their professional decision making provided they are involved in the decision making process from the development of the code up to and including decisions about story coverage. It follows that there should be representation of working journalists on the commission itself.

This leads to another major area of concern for the NUJ: sanctions for breaches in the code. If the PCC is happy to include the Code of Practice in journalists' contracts of employment, it must accept that this could result in it being used to impose disciplinary sanctions against individual journalists. Yet it consistently refuses to consider seriously any meaningful sanctions against newspapers or magazines breaching the code no matter how wilfully that is done. The NUJ believes that the PCC could easily decide to operate a system of sanctions against newspapers or magazines when it can be shown that there has been a reckless or wilful breach of the Code of Practice. Such action would only be expected in a tiny number of cases per year. At the moment the PCC typically adjudicates on around 50 cases a year, upholding complaints against about half that number. Many of these are clearly instances of carelessness or inexperience, or judgement calls where there might be some justification for the erroneous decision made. Only two or three cases a year might merit a tougher sanction than publication of the adjudication or a correction or an apology. However these exemplary cases would show the general public that the PCC has real teeth and is to be taken seriously by the industry.

The final point to be made is that changes in technology have also led to problems. Websites linked to broadcast news providers are regulated by Ofcom, with its tougher rules, need for impartiality, care over harm and offence, and potential for sanctions. Websites linked to newspapers and magazines are regulated by the PCC with its softer self-regulatory regime. The

PCC needs to consider, alongside Ofcom, how they can more effectively harmonise standards and procedures for regulation of linked websites.

In summary, the NUJ has a number of concerns about the operation of the PCC that are identified under the following headings:

Constitutional:

- There is no involvement of working journalists or their representatives;
- the PCC supports putting the Code of Practice into employment contracts, but does not recognise the journalist's right to refuse job on grounds of conscience;
- There is a considerable difference in approach to regulating websites linked to newspapers and magazines to those run by broadcasters

Code weaknesses:

There are a number of specific problems with the existing code that follow from the limited way in which it is written:

- Discrimination is limited to individuals preventing complaints being brought about discrimination against racial, ethnic or other groups unless there is inaccuracy involved.
- The accuracy clause itself is very weak, demanding only that the "press must take care not to publish inaccurate, misleading or distorted information". This is a very low hurdle.
- The code has a very limited ability to deal with matters of taste and decency in, for instance, matters of death and suicide.
- The privacy clause has very specific wording and there is now evidence that this is distorting the Commission's rulings in this area.

Operational:

- There are no sanctions for serious, deliberate or reckless breaches of the code.
- There is no process for compensation for damage done by reckless complaints, although payments have been made in some instances.
- Despite a steady increase in the number of complaints, the number of adjudications continues to fall.
- Complaints from people who are not directly involved in the story are not normally accepted in complete contrast to Ofcom, for instance, where a number of complaints made are from third parties. The NUJ believes it is important that the views of readers should be considered in the complaints process (see Jan Moir complaints) although it accepts many will fall outside the code.
- The PCC has limited investigatory powers and should seek to expand its right to initiate enquiries and investigate issues relating to press behaviour of public significance, if it is to play a more central role in the promotion and development of ethical journalism in the UK.
- The PCC should also operate a more concerted campaigning role in the area of press freedom.

Professor Chris Frost, Chair, National Union of Journalists Ethics Council

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