

The philosophy and spirit of the Code

The Preamble is the key to understanding the Editors' Code of Practice. It is the part of the Code which defines the rest. It sets out not only the balance of rights and responsibilities of editors and publishers in a free press regime, but also the underpinning philosophy of self-regulation and the spirit of the Code — the glue that holds it together.

THE CODE SAYS...

- *All members of the press have a duty to maintain the highest professional standards. The Code, which includes this preamble and the public interest exceptions below, sets the benchmark for those ethical standards, protecting both the rights of the individual and the public's right to know. It is the cornerstone of the system of self-regulation to which the industry has made a binding commitment.*
- *It is essential that an agreed code be honoured not only to the letter but in the full spirit. It should not be interpreted so narrowly as to compromise its commitment to respect the rights of the individual, nor so broadly that it constitutes an unnecessary interference with freedom of expression or prevents publication in the public interest.*
- *It is the responsibility of editors and publishers to apply the Code to editorial material in both printed and online versions of publications. They should take care to ensure it is observed rigorously by all editorial staff and external contributors, including non-journalists.*
- *Editors should co-operate swiftly with the PCC in the resolution of complaints. Any publication judged to have breached the Code must print the adjudication in full and with due prominence, including headline reference to the PCC.*

The spirit of the Code, the voluntary will and commitment to making the system work not just to the letter, is an essential element and one rarely available to any statutory or legalistic system.

It is only by invoking that spirit of flexibility that the balance — protecting both the rights of the individual and the public's right to know — upon which the success of a self-regulatory system relies, can be struck.

Although the Code does not try to set Olympian ethics likely to be more honoured in the breach, it is committed to the highest standards and sees these guidelines as the starting point.

The spirit of the Code is embodied in the editors' commitment to honour it neither too narrowly nor too broadly — and not just to the letter. This is a clear message to the industry, the PCC and to the public that this is an even-handed, practical Code based on solid principles rather than abstruse definitions buried in the fine print. It should not be abused either by editors trying to tiptoe around the rules, or by complainants playing the system to the detriment of the public's right to know.

The commitment to freedom of expression and publication in the public interest is at the core of the philosophy. Taken with the previous commitment, and the Public Interest defences (*See Section Six*), it demonstrates the balance to be struck:

- No compromises on the rights of the individual, but —
- No unnecessary interference either with freedom of expression or with publication in the public interest.

Both sides need to be weighed when taking a decision to publish and when adjudicating on complaints.

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Universal compliance: The Preamble places on publishers and editors the ultimate duty of care to ensure that the rules are implemented. It also ends uncertainty over who is covered by the Code by abolishing outdated distinctions between journalists and photographers, or other suppliers or providers of editorial services.

In the context of the Code, the rules for journalists apply to all editorial staff, external contributors or suppliers of editorial material.

For example, in cases covering clandestine devices and subterfuge, this would normally include information supplied by intermediaries or agents.

Online publications: Editorial material in online versions of newspapers and magazines is covered specifically. The rules apply to online versions of the newspapers and magazines — as opposed to freestanding online publications — and, as with the print versions, embrace *editorial material only*.

Increasingly, newspapers' and magazines' online content is very different from that in the print versions, including, for example, user-generated blogs and chatrooms, and audio visual material, some of which would not normally be subject to editorial control.

Therefore, in 2007, the Press Standards Board of Finance issued a [guidance note](#) extending the remit to cover audio visual editorial material and the Preamble was amended to reflect that. (*See also Complaints about websites*).

Editorial material was defined as *that for which the editor was responsible and could reasonably have been expected to apply the terms of the Code*.

User-generated content such as blogs and chatrooms continues to be excluded, as does audio visual material that had been produced to conform to the standards of another regulator — such as live or syndicated TV or radio

programmes. This reflects the traditional approach applied to print versions, where for example, Letters to the Editor are covered by the Code, but advertising and marketing material is not.

Co-operation with the PCC is the first test of the spirit of the Code in action. The voluntary system cannot work without universal compliance by the industry, and swift co-operation is the surest example of compliance.

Once the PCC is involved in a case, there is renewed pressure for a speedy resolution. First, the Code requires of editors swift co-operation with the PCC in trying to resolve the dispute. Second, the PCC's target is to resolve cases within 35 days.

Failure of publications to co-operate swiftly is, as the Preamble makes clear, itself a breach of the Code, which may result in censure. This happened when a Sunday paper, while standing by its story about a pop festival organiser who complained of inaccuracies, simply failed to produce any evidence.

The PCC upheld the complaint by default, reminding editors that it was their Code, and self-regulation could work only by the voluntary participation of the industry (*McIntosh v Sunday World: Report 60,2002*).

If failing to act swiftly is one form of non-co-operation, acting precipitately can be another, especially once the PCC is involved.

When an author complained that his book about the death of Pope John Paul I had been misrepresented in a Sunday magazine section in 2005, the PCC tried to negotiate a mutually acceptable correction. But the magazine jumped the gun, publishing its own correction — despite being asked by the PCC not to do so — and without due prominence.

The wording of the correction itself would have been

adequate, but the PCC felt the magazine's unilateral action ran counter to the spirit of the Code. "Publishing a correction which has not been agreed with the complainant, despite a request from the Commission not to do so, was neither within the spirit of the system of self-regulation nor within the letter of the Code of Practice," said the Commission in an adjudication censuring the editor. (*Yallop v The Sunday Times Magazine: Report 71, 2005*).

So while bad practice is rare, when it occurs the PCC always takes a grave view. In 2007, it censured the *Sunday Mail* for failing to hold to an undertaking given in 2003 to keep on file a complainant's denial of allegations it had made against him.

The paper had repeated the claims without recording the denials. The PCC regarded this as a serious matter and upheld a complaint that the report was misleading under Clause 1. (*Lothian v Sunday Mail: Report 76, 2008*).

When, a few months later, the same paper unilaterally changed the wording of an agreed letter resolving a complaint, it earned another stern rebuke. While the revised wording was still a proportionate response, the PCC warned that the paper's approach was highly unusual, disappointing — and should not be repeated (*Forrester v Sunday Mail: Report 76, 2008*).

Due prominence: The second test of co-operation is the requirement that publications print adverse adjudications against them in full and with due prominence. This is the PCC's principal sanction against offending newspapers. In fact, no editor has ever failed to publish an adverse adjudication, even though they have occasionally run to 4,000 words.

While there is an excellent record of compliance on publication of adjudications, the PCC is equally insistent that

the obligation of due prominence is properly met. It has made clear it will tolerate nothing less (*See also Page 17*).

So an editor is free to decide the prominence, but the PCC is also free to decide that it was not sufficient — and that could lead to a further breach of the Code. For this reason newspapers often consult the PCC in advance for advice on prominence.

As with the placing of corrections (*See Page 18*) due prominence does not mean *equal* prominence. A breach of the Code in the front page lead does not necessarily mean the adjudication should be on Page One — although it might be. It depends on what would be appropriate, according to the gravity of the case.

For example, the PCC ruled that an *Evening Standard* lead story suggesting that climate change activists were planning to cause chaos at Heathrow Airport by placing hoax bomb packages and attacking the security fence was based on flimsy evidence, misleading and was a serious breach of the Code.

The newspaper published the adjudication prominently on an early inside page — with a Page One reference to it. (*The Camp for Climate Action v Evening Standard: Report 76, 2008*).

Burying adjudications: "Due prominence" implies a proportionate response to the original breach. In the spirit of the Code, that would not normally mean burying an adjudication in an obscure part of the newspaper — unless the story in question had first appeared there.

A regional evening newspaper found itself in double trouble in 2008 when it ran a critical PCC adjudication about a Page 8 picture story breaching children's privacy — on Page 32. The editor contended that although the adjudication was 24 pages later in the paper than the original article, a difference

in daily paginations meant they were each a similar distance from the back page.

But this arithmetic did not add up for the PCC, which ruled that the paper had failed to give due prominence. The Commission ordered that another adjudication, detailing both breaches, should be published — *prominently*. It was duly run on Page 14. (*The PCC, Nicholas Soames MP and The Argus: Report, 77, 2008*).

Headline reference: Since June 2004, there has been an additional requirement that there should be a *headline reference to the PCC*. Although there would be no objection to spelling out the *Press Complaints Commission* in full in a headline, the strict requirement is only to use the acronym *PCC*. This is intended to provide more visible “branding” for adjudications.

Preamble and public interest: Although separate from the numbered clauses, both the Preamble and the Public Interest exceptions have always been important integral components of the Code. The Preamble was amended in 2007 to stress this.

KEY QUESTIONS

- Was the Code followed in the spirit as well as to the letter?
- Was it observed by contributors and agents as well as staff?
- Is the publication co-operating swiftly to resolve a complaint?
- Has an adverse adjudication been published with due prominence?
- If so, did the headline refer to the PCC?

KEY RULINGS

- *Yallop v The Sunday Times Magazine* (Report 71, 2005).
- *Lothian v Sunday Mail* (Report 76, 2008).
- *Forrester v Sunday Mail* (Report 76, 2008).
- *The Camp for Climate Action v Evening Standard* (Report 76, 2008).
- *The PCC, Nicholas Soames MP and The Argus* (Report 77, 2008).

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