PRESS COMPLAINTS COMMISSION

The Minutes of the 183rd Ordinary Meeting of
The Press Complaints Commission Limited held at
20-23 Halton House, Holborn, London, EC1N 2JD
on Wednesday 7th December 2011

Present: The Right Hon The Lord Hunt of Wirral Chair
Anthony Longden
Ian MacGregor
John McLellan
Ian Nichol
Lindsay Nicholson
Jeremy Roberts QC
Simon Sapper
Michael Smyth
Julie Spence
Ian Walden
Neil Watts
Tina Weaver
Peter Wright

In attendance: Stephen Abell Director

The following members of the secretariat attended the meeting as observers: Hannah Beveridge, Elizabeth Cobbe, Jonathan Collett, Charlotte Dewar, Sean Goldstein, Rebecca Hales, Scott Langham, Ben Milloy, Amber Mun, Chris Paget, and Catherine Speller.

Michael McManus, a consultant to the Commission in the area of reform, attended the meeting.

The Chairman’s opening remarks

The Chairman noted that he is optimistic about the opportunities over the coming year to renew the system of self-regulation, and build on the work of the PCC. He thanked the staff for its hard work this year, and in particular Scott Langham, who was attending his last Commission meeting as Head of Complaints. He welcomed Neil Watts to his first meeting as a Commissioner.

1. Apologies

Apologies were received from Michael Grade, Simon Reynolds and Esther Roberton.

The Chairman welcomed Alison Hastings, PCC consultant.
2. Minutes

The minutes of the meeting held on 19th October 2011 were approved as a correct record of the meeting and for publication.

3. Matters arising

(i) Johann Hari and The Independent (PCC Paper No. 5268)

Following a course of action agreed at its last meeting, the Chairman of the Commission had written to the editor about the findings of an internal report produced by the newspaper about the allegations against Mr Hari. It agreed to pursue the possibility of training sessions with the newspaper’s journalists and to discuss further with the editor what lessons could be drawn from this episode and the possibility of obtaining an appropriately redacted copy of its internal report.

4. Complaints

(i) Complaint No. 11-4692 Various v Mail Online (PCC Paper No. 5280)

Peter Wright took no part in the discussion of this complaint and left the room.

Following discussion of this case, the Commission decided that the newspaper had breached Clause 1 of the Editors’ Code. It therefore issued the following adjudication:

Following complaints from members of the public, the Press Complaints Commission investigated whether an article headlined “Guilty: Amanda Knox looks stunned as appeal against murder conviction is rejected”, published on Mail Online on 3 October 2011, was inaccurate and misleading in breach of Clause 1 (Accuracy) of the Editors’ Code of Practice.

The complaint was upheld.

The online article reported that Amanda Knox had lost her appeal against her murder conviction in Italy. In fact, the appeal had been successful. The article had appeared online for under two minutes, before it was removed and replaced with an article reporting the correct verdict.
In addition to the overarching complaint that the article had reported the wrong verdict, the complainants also drew the Commission’s attention to: the inclusion of quotes attributed to prosecutors, apparently reacting to the guilty verdict (“justice has been done” although “it was sad two young people would be spending time in jail”); a description of the reaction in the court room to the supposed verdict (“Knox...sank into her chair sobbing uncontrollably while her family and friends hugged each other in tears”; Meredith Kercher’s family “remained expressionless, staring straight ahead, glancing over just once at the distraught Knox family”); and the claims that Ms Knox was “taken out of court escorted by prison guards and into a waiting van which took her back to her cell” and would be “put on a suicide watch”.

The newspaper apologised that the wrong verdict had been published on its website for around 90 seconds. It explained that – in high-profile cases such as this – it was standard practice for newspapers to prepare two stories in advance. There had been confusion in the court as the judge had initially found Ms Knox guilty of slander; he had then found her not guilty of murder. As a result, several news sources had initially published the wrong verdict. The quotations had been obtained from the prosecution in advance of the trial, to be published in the event that the appeal was rejected. In addition, the Italian authorities had advised the reporter that all those found guilty of murder were placed on suicide watch as a matter of course.

The newspaper said that the individual responsible for the error had been disciplined. Moreover, it had published an explanation online apologising to its readers for the error. The correct verdict had been reported in its print edition the following day. The newspaper also made clear that it had launched an immediate internal inquiry to examine its procedures in the light of the complaint. As a result, ‘set and hold’ stories would now be commissioned to include only the basic verdict and factual background material: there would be no colour and no quotes based on possible outcomes.

Adjudication

Clause 1 (Accuracy) of the Code states that newspapers must take care not to publish inaccurate or misleading information. In this case, the newspaper (and other media outlets) had published the wrong verdict in a major trial owing, it appeared, to considerable confusion in the courtroom. This error raised an immediate breach of the Code; however, the Commission considered that the rapid publication of the correct verdict – together with an explanation and apology to readers – was a proportionate and appropriate response under the terms of Clause 1 (ii).
Nonetheless, the Commission was particularly concerned about other aspects of the report, especially the account of the reaction by those in the courtroom to the apparent verdict, and to the subsequent actions of Ms Knox. In the Commission’s view, the article had sought to present contemporaneous reporting of events (describing, in colourful terms, how individuals had physically behaved) which simply had not taken place. This was clearly not acceptable.

The Commission did not see any difficulty in newspapers writing ‘set and hold’ articles. It understood that there were, at times, pressures to ensure that readers were informed of current affairs at the earliest opportunity. However, it is also vitally important that descriptions of events, especially trials, are published in a manner which complies with the Editors’ Code. Describing reactions and behaviour that have not taken place, in a factual manner as if they had, must always raise a breach of Clause 1 of the Code.

The Commission acknowledged that the article which reported the verdict incorrectly had only been published for a short period. It also welcomed the swiftness of the newspaper’s response and its decision to examine its procedures in light of the events, which had led to changes in the manner in which it would approach similar stories. Nonetheless, given the other information in the report, the Commission decided to uphold the complaint. It trusted that the preparation of future articles would not involve inaccurate descriptions in this way.

(ii) Complaint No. 11-2491 Rahman v The Daily Telegraph (PCC Paper No 5275)

Peter Wright returned to the room. Ian MacGregor took no part in the discussion of this complaint and left the room.

Following discussion of this case, the Commission decided that the newspaper had breached Clause 1 of the Editors’ Code. It therefore issued the following adjudication:

Mr Lutfur Rahman, Mayor of Tower Hamlets, complained to the Press Complaints Commission that two blog postings, headlined “Lutfur Rahman councillor charged with fraud” and “Lutfur Rahman: all his controversies in one place”, published on The Daily Telegraph’s website (telegraph.co.uk) on 13 April 2011 and 20 October 2011 respectively, were inaccurate and misleading in breach of Clause 1 (Accuracy) of the Editors’ Code of Practice.

The complaint was upheld.
The April 2011 blog reported that a Tower Hamlets councillor had been charged with fraud. As part of the posting, the article made reference to the complainant having been “accused of failing to declare substantial donations” to his campaign, “a criminal offence under the Political Parties, Elections and Referendums Act”.

The complainant said that, following a full investigation, the Crown Prosecution Service and the police had confirmed in February 2011 that there was no case to answer: none of the allegations was found to have breached the Act. The newspaper had not contacted the complainant to establish the outcome of the police investigation prior to publication.

The newspaper stood by the statement that the complainant had been accused of failing to declare substantial donations. The allegations had been, and continued to be, levelled against him by individuals who considered that the police investigation had been inadequate. The allegations had been reported in detail on numerous occasions by the newspaper in various blogs in September and October 2010 without complaint. While the allegation had been presented as such, the newspaper nonetheless was willing to add a statement to the post making clear that the police investigation had been concluded, and its finding was that there was no case to answer.

The second blog post sought to summarise the complainant’s first year in office, presenting a timeline of what the newspaper considered to be his “controversies”. One of the entries read as follows: “September 18 [2010]: Lutfur is accused of failing to declare thousands of pounds in donations from Shiraj Haque - a criminal offence, if true”. The complainant said that, despite being in possession of evidence that the police investigation had been concluded (by virtue of the ongoing complaint), the newspaper had failed to make clear the outcome of the matter, which would have misled readers. The newspaper offered to add a similar statement to this article, and subsequently updated each blog post to include the outcome of the investigation.

Adjudication

It was not in dispute that allegations had been made over the complainant’s disclosure of donations and that the issue had been subject to considerable scrutiny, including a police investigation. In the blog posts - which fell under the remit of the PCC owing to the fact that they were subject to editorial control - the newspaper had been wholly entitled to refer to these allegations, which were serious and a matter of public interest.
However, under the Editors’ Code, the newspaper was also required to take care not to present the allegations in a manner which would be inaccurate or misleading to readers. This included reporting the outcome of the relevant police investigation, which had concluded in February 2011 that there was no case to answer. The Commission considered that, by failing to include this information, readers would have been misled into believing that the investigation was ongoing. This raised a breach of Clause 1.

The Commission considered that the newspaper’s offer to update the April blog with the outcome of the police investigation was a sufficient remedy to this breach, and represented a public acknowledgement of the full position.

The case should have rested there. However, the newspaper had then repeated the allegations in a timeline about the complainant, without reference to the conclusion of the investigation (despite having been provided with evidence of the outcome as part of the PCC complaint). This was regrettable, and preventable. The blog had made reference to the claim being “a criminal offence, if true” without any mention of the position in regard to the police investigation. This would have clearly misled readers in breach of Clause 1.

It was the publication of this second blog that has led to the Commission finding an outstanding breach of the Code, and the complaint has been upheld on that basis.

Lutfur Rahman also complained that the April 2011 blog contained additional inaccuracies in breach of Clause 1 (Accuracy) of the Editors’ Code.

The complaint was not upheld.

The complainant said that the headline gave the misleading impression either that he had been charged with fraud, or that he had been connected to the charges against the councillor, which was not the case. The councillor in question was independent and not part of any group. In addition, the article stated that the complainant had given a character reference for use in court to a convicted sex attacker. This was misleading as the article had failed to make clear that the complainant had subsequently withdrawn the character reference.
The complainant had raised a further concern over a description of him as “extremist-backed” and the claim that he had close links with an organisation called the Islamic Forum of Europe (IFE). He considered that the article implied that he was an extremist. He had repeatedly denied links with the IFE. While it was not unusual in a borough such as Tower Hamlets to be supported by members of the IFE, this did not mean he had close links to the organisation. Allegations of these links had been made following his selection as Labour Party candidate for the Tower Hamlets’ directly-elected mayoralty, but had never been investigated or conclusively proven.

The newspaper said that the councillor who had been charged had been one of eight who had left the Labour Party in order to support the complainant. As such, it was not misleading to draw an association between them. The headline referred to a councillor - which the complainant was not - and the opening paragraphs stated that one of his “prominent supporters” had been charged with fraud. This was not misleading.

On the second point, the newspaper said that the complainant had withdrawn the character reference only after it had been used at the sentencing of the individual. He had pleaded guilty to sexual assault seven weeks earlier, and the complainant had had ample time to withdraw the reference, yet had failed to do so. Once more, the newspaper’s position was that this was not misleading.

Finally, the newspaper said that it had described the complainant in the blog as “extremist-backed” because he was “backed” by an organisation it considered to be extremist. The ideology of the IFE warranted, in its view, such a description. The newspaper had never claimed that the complainant himself was “extremist”. The newspaper said that the complainant was certainly linked to the IFE and pointed to specific examples of individuals connected to the politics of the area asserting that a relationship existed between the complainant and the IFE. Moreover, the complainant had been removed following his selection as Labour candidate for mayor owing, amongst other things, to his alleged links to the IFE. Nonetheless, the newspaper was prepared in any future blog posts on the subject to include the complainant’s denial of links to the organisation.
Adjudication

The Commission has ruled on many occasions that - owing to their brevity - headlines must be considered in the context of the article when read as a whole. Given the public support the councillor had given the complainant in the past, it was not misleading or inaccurate, in the Commission’s view, to link them in the headline. The article had made clear from the opening paragraphs that it had been the councillor and not the complainant who had been charged with fraud. The Commission did not agree that readers would be misled and did not find a breach of Clause 1 (Accuracy) on this point.

On the second point, there was no dispute that the complainant had withdrawn the character reference used in the court case of a man who had pleaded guilty to sexual assault. However, it was also not in doubt that it had been withdrawn after it had been used in court and the man sentenced. As the reference had been a feature of the active consideration of the case, the Commission did not consider that the omission of any mention of its later withdrawal would have significantly misled readers. This part of the complaint was not upheld.

There were some final issues to consider: the reference to the complainant being “extremist-backed”, and the claim of his links to the IFE (to which the newspaper had referred in several blog posts on the topic). The Commission was satisfied that the article at no point stated that the complainant himself was extremist, or that readers would have been misled into thinking that he was. The claim in the article was rather that the complainant was “extremist-backed”. It was not in dispute that members of the IFE supported the complainant.

In considering whether the group could reasonably be described as “extremist”, the Commission had to have regard for the context in which the claim had been made. The article was a blog post which clearly reflected the journalist’s position on the events he reported. Readers would have been aware, not least because of the nature of the claim itself, that this represented his opinion, which may have been disputed. The newspaper had, in addition, explained the grounds for using the term to describe the IFE. Ultimately, however, this was a matter of opinion and interpretation. The Commission - which has not received a complaint from the IFE about the article - did not consider that it could establish that the term “extremist” was misleading.
The newspaper and the complainant held incompatible positions as to whether the complainant had “close links” to the IFE. Reference to “links”, close or otherwise, might often be disputed, as the term could be interpreted in several ways. It was not in doubt that there had been prominent allegations of links between the complainant and the IFE at the time of his de-selection as the Labour candidate for the mayoral election. Nor was there dispute that the complainant had had contact with members of the IFE, or that members of the IFE supported him.

In these circumstances, the Commission did not consider that the term “close links” was misleading in breach of the Code. Nonetheless, given the complainant’s stance on the matter, the Commission welcomed the newspaper’s offer to include his denial of such a connection in future posts, for the benefit of its readers. This part of the complaint was not upheld.

(iii) **Complaint No. 11-4638 Neil v The Scottish Sun (Paper No. 5276)**

Ian MacGregor rejoined the meeting.

Following discussion of this case, the Commission decided that there had not been a breach of the Editors’ Code. It issued the following adjudication:

Alex Neil MSP complained to the Press Complaints Commission on behalf of a constituent that two articles published in The Scottish Sun in September 2011 had intruded into her son’s time at school in breach of Clause 6 (Children) of the Editors’ Code of Practice.

The complaint was not upheld.

The articles reported that a former police officer had been hired by a school as a support worker for the complainant’s son, who it alleged had “battered staff and pupils” and was “out of control”. The complainant said that the information in the article had identified her child, to those at the school and more widely. Although the newspaper had not named the child or the school he attended, it had made reference to the general area in which the school was located; referred to a specialist unit (in which the child was enrolled); included the child’s age; made clear that the child has autism; and provided details of his alleged misbehaviour. The complainant said that the school was the only one in the area with an autism unit, and the member of staff identified (a photograph of whom had been published) had been assigned only to the child.
The complainant said that her son had been publicly humiliated by the coverage, which had caused stress and upset. She had not been contacted by the newspaper before publication and was concerned that the newspaper had, instead, sought comments from elected representatives (including Mr Neil) as part of attempts to vilify the boy.

The newspaper said that the story was clearly in the public interest: it had been brought to its attention by a parent concerned about the disruption caused by the boy, including incidents of violence which were said to have scared staff. However, it would not seek to identify a child in such circumstances; rather, it had made the decision to omit his name and the name of the school from the story. It considered that the only people who would be able to identify him from the published story would already be aware of his situation. The area in question had five secondary schools with over 6,000 pupils and, although the autism unit was the only one in the area, other schools had specialist units. The newspaper’s approaches to relevant individuals for comment - including MSPs - was part of its regular practice.

The complainant maintained that her son had been identified: people from his old school had made contact with her after reading the article. In addition, while there may have been other specialist units, the article had already referred to the child’s autism.

Adjudication

Clause 6 of the Editors’ Code states that “young people should be free to complete their time at school without unnecessary intrusion”.

There were two overriding issues for the Commission to consider here: whether the references to the child intruded unnecessarily into his time at school; and whether there was a public interest in publishing the story.

The article did contain personal information about the unnamed child: his age, the fact that he had autism and details about the progress of his education. Given his age, it would have been entirely wrong - and a clear breach of the Code - had the newspaper named him, or his school. By referring only to the general area where it was located, the newspaper had taken steps to prevent the child from being identified. While the articles had referred to a specialist unit, the Commission was not convinced that this was sufficient to lead to his general identification.

On balance, the Commission considered that the newspaper had removed enough detail to limit the level of intrusion, given the considerable public interest in the story.
The Commission noted that the basic premise of the coverage was not in dispute: the child’s behaviour had led to the decision to appoint a former police officer to work with him on a one-to-one basis. The newspaper had argued in its editorial that there was a balance to be found between teaching the child - at a significant cost to the public - and “the needs and rights of other children”. The newspaper was entitled to ask important questions about how the rights of disruptive children to education must be balanced against the rights of other children and their teachers.

This was a difficult decision, and the Commission had deep sympathy for the complainant’s concern that her son’s education might have been affected by the newspaper’s coverage. Ultimately, however, the Commission decided that the newspaper had appropriately balanced its responsibility to report on the matter in the public interest with its obligation to protect the complainant’s son from unnecessary intrusion. The complaint was not upheld.

(iv) Complaint No. 11-4206 Blows v The Northern Echo (PCC Paper No. 5277)

Following initial discussion of this case, the Commission agreed to postpone its formal consideration of the matter to allow it to consider further information that had been provided by the complainant shortly before the meeting.

(v) The Commission formally approved (subject to individual queries on specific complaints raised with the office) the following PCC Papers, which had contained draft adjudications for Commissioners’ ratification or otherwise: 5229, 5230, 5231, 5239, 5240, 5241, 5242, 5243, 5244, 5245, 5246, 5247, 5248, 5249, 5250, 5251, 5252, 5253, 5254, 5255, 5256, 5257, 5258, 5259, 5260, 5261, 5262, 5263, 5264, 5265, 5266, 5267, 5269, 5270, 5271, 5272, 5273. All papers had been circulated since the previous Commission meeting.

5. Code Committee Report (PCC Paper No. 5281)

The Commission had a brief discussion about the following changes proposed by the Code Committee to the Code and ratified them, to take effect on 1 January 2012:

(i) The Code’s preamble will now state that editors who breach the Code must publish the PCC’s critical adjudication in full and with due prominence agreed with the PCC’s Director.
(ii) The Public Interest section of the Code will require editors who wish to argue that a *prima facie* breach of the Code was in the public interest to demonstrate not only that they had good reason to believe the public interest would be served, but also *how and with whom that was established at the time*.

6. Reform: Oral update

Michael Smyth, Chair of the Reform Committee presented an oral report of the initial proposals agreed by the Committee.

The Chairman was authorised by the Commission to take forward the proposals for the new organisation, recommended by the Committee, which would carry out both the current complaints and pre-publication functions and also have a standards arm. It agreed that he should consult further with the industry about the new structure, mindful of the report of the Reform Committee and the initial views of Commissioners.

7. 2012 Budget (PCC Paper No. 5279)

Members of the secretariat staff left the room for the remainder of the meeting.

*Following discussion, a budget for the first half of 2012 was agreed by the Commission, including provision for a new senior staff member. One Commissioner recorded a dissent.*

8. Bank Mandate

On a proposal from Ian Walden, seconded by Michael Smyth, it was resolved that, following the appointment of Lord Hunt as Chairman of the Commission, he should have signing authority for cheques drawn on the Commission’s bank account in addition to the existing signatories (Stephen Abell and Ian Walden).

9. Chairman and Director’s meetings (PCC Paper No. 5238)

Commissioners received an update on appointments undertaken by the Chairman and Director.

10. Any other business

There was none.

11. Date of next meeting

**Wednesday 25th January 2012** at 2.00 pm at Halton House, 20/23 Holborn, London EC1N 2JD.