



2006 Annual Review

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- In 2006 the PCC investigated and resolved a **record number of complaints** under the code
- **24 hour a day advice** to members of the public and editors
- PCC flexible and able to meet the **new challenge** of the digital age

Report of the Chairman of the Commission

Reviewing the facts and figures we pulled together for the recent Select Committee hearing into the PCC and privacy reminded me of something that is often overlooked: the sheer scale of the PCC's work. The regional press alone employs 13,000 journalists. Add national newspapers, magazines, freelancers, photographers and others, and the number of individuals who subscribe in one way or the other to the Code is counted in tens of thousands. Between them, they produce millions of articles a year, on websites as well as in print products. Now they are producing audio and visual products which must also comply with the Code of Practice. Such is the size of the industry.

Now consider the scope of the Commission's work in 2006. We investigated and resolved record numbers of complaints under the Code of Practice, covering the gathering, presentation and use of news. Our officials gave pre-publication advice 24 hours a day to editors and members of the public in order to prevent problems arising in the first place. We promoted continuous professional training of working journalists by hosting seminars throughout the country. We made formal rulings on a wide range of subjects, the most newsworthy and controversial being the shifting line between what is legitimate for the public to know and what should reasonably be kept private. And we tackled head-on the challenges posed to traditional notions of privacy and the public domain by the remarkable developments in new media - developments which have, incidentally, left devotees of formal legal regulation scratching their heads about how to react.

This has been achieved within a framework intended to safeguard the considerable rights to freedom of expression, which the press in any democracy worthy of the name should enjoy. I have a lot of sympathy for those who now feel that this is a freedom increasingly under threat from several quarters. The danger is real. If the trend continues, there will be inevitably further calls for the freedom of the press to be entrenched in a way similar to the First Amendment of the US constitution.

The picture that emerges from our activities in 2006 is one of flexible, mature regulation whose main aim is the delivery of practical and common-sense results.





The revolution in the news media makes the idea of a statutory privacy law even more impractical and objectionable”

Sir Christopher Meyer KCMG, Chairman

And, to spell it out, those results mean:

- Unacceptably intrusive articles, even if true, not appearing;
- Harassment that can be stopped in its tracks;
- Publication of prominent corrections and apologies;
- A host of other meaningful remedies to breaches of the Code;
- The development of clear journalistic principles set out in a growing body of case law;
- The near-universal incorporation of the Code of Practice in journalists’ contracts, so making breaches of the Code the more serious for being a violation of the terms of employment;
- And, most recently, the swift extension of the Commission’s remit – and therefore the protection afforded to the public – to keep up with technology and novel ways of delivering news.

We are now well into a digital age of media where new methods of sharing information sit alongside older ones such as printed newspapers. The resulting challenges for a system of regulation like the one overseen by the PCC, founded in the print age, have been obvious; and we could not afford to wait too long before tackling them. After over a year of intense discussion with the newspaper and magazine industry, I am pleased to report their confirmation that the PCC’s remit will extend to editorially controlled or generated audio and visual material. This is a significant moment in the Commission’s history. It marks the first time that its remit has been extended voluntarily at a time when there was no external legal or political pressure. It sends some very clear messages – that the industry is committed to the Code and the PCC; and that an old idea like self-regulation is perhaps the best answer to the problem of how to keep the quality of information high - how, in the age of the internet when the public is swamped by information, to distinguish between the reliable and the unreliable, the good and the bad.

For reasons both practical and of principle, I have always been opposed to a statutory privacy law. The revolution in the news media makes the idea even more impractical and objectionable. In a digital age, where anyone can be a publisher and speak to the UK from websites hosted in faraway jurisdictions, a privacy law or, say, a statutory press council, would

have insurmountable difficulties in trying to restrain information. The PCC system works because information is voluntarily withheld by those in the regulated industry. That would not be the case if the restrictions were imposed. Those in receipt of true but intrusive information could easily undermine the rules by passing it to bloggers’ sites or foreign news media. The result would be less protection for people.

That then leaves the PCC with a great responsibility. It must continue to offer a range of decent remedies to complainants, adapting them all the while to the particular circumstances of the problem, including how the information was originally published. It must act quickly when intrusive or inaccurate information is published online, given the speed with which it can be forwarded to a global audience. It must promote compliance with its rules among all journalists who work for publications that subscribe to the Code, whether they write in print or online, or speak, or publish still or moving pictures.

All these things are possible with a system which has: the co-operation and respect of the industry; freedom from the state; the ability to respond quickly to external changes; independence; a system of checks and balances to ensure transparency and accountability; and, perhaps most importantly of all, the provision of a service for everyone, that is totally free of charge.

That describes the PCC today. This is still not well enough known up and down the country. That is why we at Halton House are in virtually perpetual motion, spreading the word across the UK about the service we offer the public. But the press itself still has more – much more – to do to help improve the visibility of the Commission. This is in the interests of the public, the Commission, and the press itself. I will be raising this with the industry over the coming year.

Sir Christopher Meyer KCMG, Chairman



"The PCC now has responsibility for audio-visual content of newspaper and magazine websites"



- High number of **privacy complaints** to PCC contrast with small numbers that go to court
- PCC offers a wide range of **quick and meaningful resolutions** to complaints
- PCC **resolved 96** privacy complaints in 2006
- Since 1996 resolved complaints have **increased by 400%**

Privacy

The complaints statistics for 2006 (see opposite) show the volume of privacy complaints with which the Commission deals. They put into perspective the small number of privacy/confidence actions against newspapers that go to court, although the huge attention that legal actions attract leads some people erroneously to think that there has been a shift away from the PCC to the courts.

The truth is the opposite. The scope of the Commission's work on privacy is immense and not even captured by the published figures, which relate only to complaints that have been formally pursued. Its involvement in privacy issues is far broader, including: giving pre-publication advice to editors and complainants; resolving problems with newsgathering methods without the need for a formal complaint; dealing with thousands of informal requests for advice; as well as offering a wide range of remedies for breaches of the 11 clauses of the Code that relate to privacy and setting the boundaries on privacy through expanding the Commission's case law.

It seems obvious to state that people who complain about privacy are motivated by a wish to keep something private, to stop intrusive behaviour from continuing, or to put things right if something intrusive has been published. This is one of the main reasons that, despite the existence of conditional fee arrangements, there is no great appetite to go to court. There is also no evidence that either the Commission's complainants or the public at large think that fining newspapers for privacy intrusion is the right answer (see page 20 on Ipsos MORI survey).

Because the Commission's procedures avoid the complications of fines – which would warp the PCC into a quasi-legal body with all the attendant downsides and none of the upsides of a statutory body – it can focus on the delivery of risk-free, meaningful and quick resolutions to complaints at no charge to the complainant. These include:

- The removal of offending material from websites to prevent swift and widespread dissemination;
- The publication of apologies;

- Undertakings about future conduct;
- Positive agreed follow up pieces;
- The destruction or removal of offending material from publications' internal databases;
- Private letters of apology;
- Confirmation of internal disciplinary action and retraining;
- Organisation of a face-to-face meeting between the parties;
- Calling off photographers or journalists from questioning individuals once they have asked to be left alone;
- Along with any combination of the above, a full record of the complaint details to be recorded on the PCC's website – including for a time on its homepage – as a permanent and correct record of the complaint.

There will be times when conciliation is not appropriate. This may be because the case raises broad issues of principle that should have a wider circulation within the industry, or because any offer is not proportionate to the original breach of the Code. Such cases enable the Commission further to expand its jurisprudence on privacy – which is, after all, a fluid subject on which cultural expectations shift and new cases help define the boundaries on privacy for the press.

To that end, the Commission made a number of important new privacy rulings in 2006, relating to children; photographs of people at work; intrusion into grief; confidential sources; and privacy and pregnancy among others. See page 10 for details of these key adjudications.

“The scope of the Commission's work on privacy is immense... there is no great appetite to go to court”



Privacy statistics

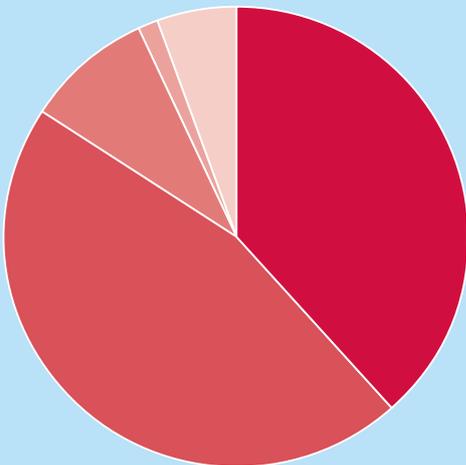
There were 231 cases relating directly to a person's privacy in 2006, a slight increase on 2005.

Of these, 96 were settled amicably following an agreement brokered by PCC officials, and proportionate offers of settlement (which were not accepted by the complainant) were made in a further 16. The Commission published 19 adjudications that concerned privacy in some way, upholding 5 complaints. The remainder were dispensed through private rulings from the Commission, usually because they did not breach the Code. All this work was achieved in an average of just 34 days; while formal adjudications considered by the board of the Commission were reached within 45 days.

Most privacy cases concern the regional and local press – perhaps not surprisingly given the size of that industry.

Privacy – rulings by sector

- National: 38.4%
- Regional: 46%
- Scottish: 8.9%
- Irish: 1.3%
- Magazine: 5.4%



Although the main privacy rules are set out in Clause 3, which states that “everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications”, there are 10 further clauses which protect individual privacy. These include requirements on children, grieving relatives, victims of sexual assault, and patients in hospitals. In 2006, 11 adjudications and 53 resolutions were privacy cases where the objection fell under a part of the Code other than Clause 3 (Privacy).

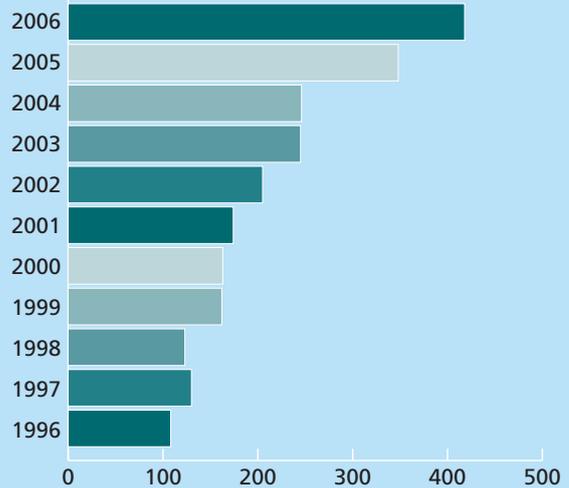
General statistics

There was a sharp rise in the number of resolved complaints in 2006. These are cases where members of the Commission's full time staff successfully negotiate remedies to complaints to the express satisfaction of the complainant. There were 418 last year – a rise of 20% over 2005 and the highest total in the PCC's history.

This means that 78% of cases that represented a possible breach of the Code were resolved. In a further 20% of such cases, the Commission judged that offers not accepted by the complainant were proportionate and suitable. 2% of possible breaches were not met with a sufficient offer from the editor, and these complaints were all upheld.

There has been a clear culture change over the last decade. Editors now routinely offer meaningful resolutions to breaches of the Code – and on occasion offer to resolve matters that may not in fact breach the Code. This is one of the advantages of a system of conciliation which brings parties together rather than having to make a judgement on who was right in each case. Since 1996, the number of resolved complaints has increased by around 400%, when overall complaints numbers have increased by about 20%.

Resolved complaints over the last 10 years



There was a slight fall of about 10% in the total number of complaints to 3325. This overall figure includes a large number that are outside the Commission's remit – concerning advertising for instance. When those complaints are stripped out of the total, the number of complaints under the Code rose by 9% to 1010, of which 740 necessitated a formal investigation (up 11%). These formal investigations were also conducted quicker than ever: on average taking 42 days, down from 48 in 2005. The average

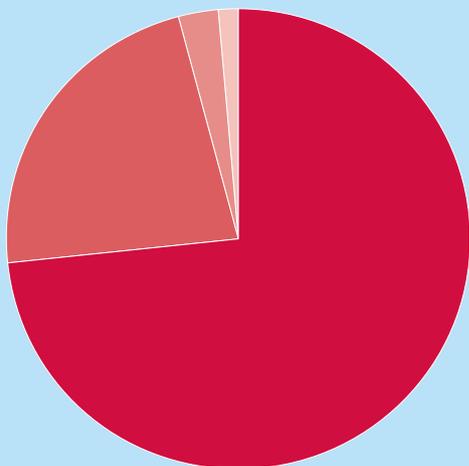
time taken to process all complaints – some of which were, of course, outside the Commission’s remit – fell from 23 to 17 days.

As usual, the majority of complaints were about accuracy. The table below sets out the percentage of complaints that raised a possible breach of the Code by clause.

Possible breaches of the Code - by Clause

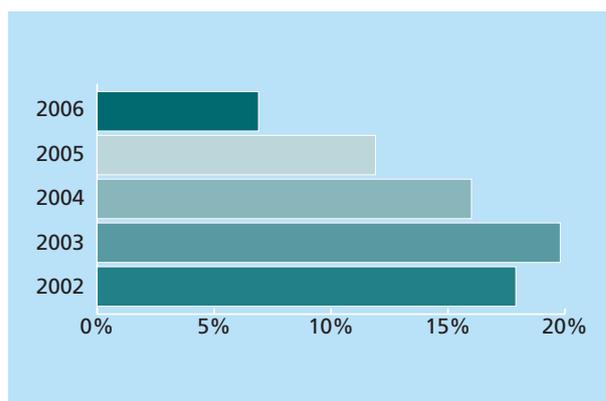
Clause 1	Accuracy	72.6%
Clause 2	Opportunity to reply	0.9%
Clause 3	Privacy	10.8%
Clause 4	Harassment	4.3%
Clause 5	Intrusion into grief or shock	4.7%
Clause 6	Children	2.1%
Clause 7	Children in sex cases	0%
Clause 8	Hospitals	0.6%
Clause 9	Reporting of crime	0%
Clause 10	Clandestine devices and subterfuge	0.5%
Clause 11	Victims of sexual assault	0.1%
Clause 12	Discrimination	2.6%
Clause 13	Financial journalism	0.1%
Clause 14	Confidential sources	0.5%
Clause 15	Witness payments in criminal trials	0.1%
Clause 16	Payment to criminals	0.1%

- Accuracy and opportunity to reply: 73.5%
- Private lives: 22.6%
- Discrimination: 2.6%
- Newsgathering: 1.3%



Discrimination complaints

The number of complaints relating to discrimination fell notably in 2006, following a similar fall in 2005:



One reason for this fall might be that the PCC has taken steps to explain to interested parties that complaints about a publication’s treatment of a religious or racial group may better be framed under Clause 1 (Accuracy) than Clause 12 (Discrimination). Clause 12 proscribes prejudicial or pejorative reference to “an individual’s” race or religion, not to groups as a whole. So objections to misleading references to religious groups, for instance, would fall under Clause 1 rather than Clause 12.

“PCC helps frame complaints on race and religion”





80% of apologies appeared on the same page or further forward”

Prominence of corrections

The Commission’s record on securing corrections, apologies, and other forms of redress is detailed elsewhere in this report. Associated with this is the issue of where such corrections and apologies appear in newspapers and magazines. There are few other issues likely to arouse such passionate debate as the prominence of corrections and apologies. Some people suggest that there should be a direct correlation between the size of the article in which the original transgression occurred and the piece correcting it. But things are more complicated than that. The correction may relate only to a small part of the article; the text may, for legitimate reasons, contain fewer words; and the location will depend on how serious the original breach of the Code actually was.

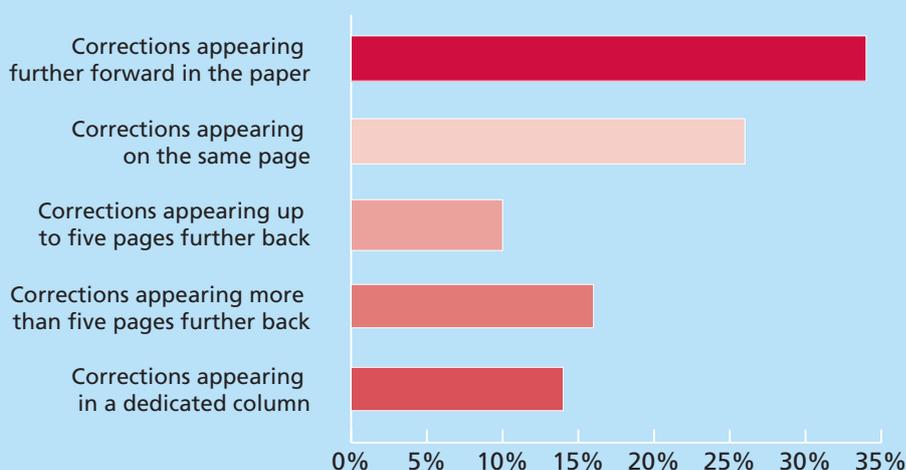
The key is for corrections to be visible, rather than consume a pre-determined amount of space which may make them look absurd or artificial. It also seems to be true that readers are more likely to read and digest smaller corrections than larger pieces.

The Code of Practice is clear that significantly inaccurate material must be corrected with ‘due prominence’. Commission officials will discuss with the newspaper where the correction will appear as part of the conciliation process. The Commission also monitors where corrections and apologies that it negotiates appear. While there have been clear improvements in recent years, there is still more to do.

In 2006 the majority of corrections, apologies and clarifications (74%) appeared on the same page or further forward than the original item under complaint, or in a dedicated corrections column. When apologies alone were examined, the proportion rose to 80%.

The appearance of a correction further back in the publication than the original does not mean necessarily that it has been given too little prominence. Nonetheless, the Commission retains the option of upholding a complaint on the basis that a correction has not received due prominence.

Prominence survey of corrections/apologies/clarifications 2006





At all times the Commission made clear that phone message tapping was totally unacceptable...”

Review of the year

In addition to its day to day work investigating, resolving and ruling on specific complaints, the Commission’s work includes a host of other activity designed to promote high professional standards in journalism.

Suffolk murders – pro-activity and payments to witnesses

Although the Commission did not receive any complaints about press behaviour following the sequence of murders near Ipswich in autumn/winter 2006, the incident illustrates two aspects of the Commission’s ‘invisible’ work.

First, given the large amount of media interest in the story, Commission officials approached Suffolk police to offer assistance should any friends or family of the deceased need it. The police were provided with information about how to contact the Commission at any time and told what sort of issues could be dealt with under the Code. Encouragingly, the feedback was that – on this occasion – journalists were not creating any difficulties. It might be concluded that there is currently good compliance with the Code of Practice at times of major incidents, as this feedback echoed that following the July 2005 London bombings.

Second, the story showed the extent to which newspapers themselves take care to comply with the Code’s requirements. There are very strict rules regarding the circumstances in which payment or offers of payment may be made to witnesses or potential witnesses in criminal cases. Following requests from within the industry itself, the Commission gave advice on several different occasions regarding how the Code should be applied as the story developed rapidly. This was to ensure that newspapers could report a story of great public interest while operating within the terms of the Code.

Phone message tapping

In August 2006 the News of the World journalist Clive Goodman was arrested on suspicion of having illegally tapped into telephone messages of people associated with the Royal Family. In November he pleaded guilty to a charge under the Regulation of Investigatory Powers Act, and in January 2007 was sentenced to prison for four months. Throughout this, the Commission had taken care to put on record its view of these events and how it intended to proceed once the law had taken its course. At all times it made clear that phone message tapping was totally unacceptable unless there was a clear public interest reason for carrying it out. It deplored what had happened. There was also a role for the Commission in taking things further.

This case illustrates the relationship between the Commission and the law, and how they can work well together to achieve different objectives. It also highlighted something that is often overlooked – that, although there is rightly no restrictive legislation aimed directly at journalists, newspapers and magazines remain subject to the general law. There are some exceptions to some legislation for journalistic activity. In this case, the law was concerned with the prosecution of individuals for an identifiable offence under the RIPA, while the Commission was concerned about the application of the Code on the newspaper and wider professional standards.

Before sentencing, the Commission announced that it would have a number of questions for the editor of the newspaper following the outcome of the trial. The editor of the newspaper resigned on the day that Mr Goodman was sentenced, meaning that such an inquiry was no longer appropriate. However, the PCC takes the matter seriously and announced that it would be questioning the new editor of the newspaper both about what went wrong previously and also about what he would be doing to ensure that the situation was not repeated.

It also said that it would be launching an industry-wide exercise to “find out the extent of internal controls aimed at preventing intrusive fishing expeditions; and what is being done to instil understanding both of the Code of Practice and the law in this area, and also of journalistic public interest exemptions”.

It intends to publish a report in due course.

Data Protection Act

Different, but similar, issues arise under the Data Protection Act. Journalists are again caught by the terms of the Act, although there may be exceptions for legitimate journalistic activity. The Information Commissioner – who is responsible for taking complaints under the Act and taking action when the law is broken – has taken a high profile recently in raising awareness about journalists’ obligations under the Act.

Sir Christopher Meyer has said publicly on behalf of the Commission that bribery has no place in journalism, and highlighted the importance of the Data Protection Act in journalists’ training. It goes without saying that the Commission would deplore the breaching of the Act when there were no grounds to do so in the public interest.

There is some discussion about where further responsibility for ensuring compliance with the Act should lie. Some people have suggested that the Commission itself should take the initiative and investigate the extent of such compliance. Others point to the fact that the Commission is only permitted to act in relation to the Code of Practice and will, in any case, normally defer to legal authorities when they are the relevant body.

The Commission and the self-regulatory structure work best when they complement, rather than try to duplicate, the numerous requirements of the law. The Commission looks forward to further dialogue with the Information Commissioner about how high standards can be achieved in terms of newsgathering and the Data Protection Act. However, it also believes that:

- The proposal to jail journalists for breaking the Act is disproportionate, would send out a worrying signal and, in any case, the argument in favour of such a move has not been made out; and
- The evidence is some years old and incomplete. No assessment as to current practice – which would measure the success of the Information Commissioner’s awareness-raising activities – has been undertaken.

Harassment

– the paparazzi and media scrums

One of the subjects considered by the recent Select Committee inquiry into self-regulation was whether there was sufficient protection for individuals from the attention of the paparazzi. This followed a high-profile incident involving Kate Middleton.

The Commission welcomed the opportunity to show publicly what it can achieve in terms of preventing or stopping harassment, as it is one of its invisible achievements and something on which much progress has been made in recent years. The Commission told the Committee that:

- Proactively, it helps prevent problems from arising by educating individuals and organisations about how to deal with unwanted approaches, including producing a pocket-sized anti-harassment leaflet;
- When problems do arise, the PCC is contactable 24 hours a day and can communicate desist messages across the media, including broadcasters if necessary;
- In almost every case this has the effect of dispersing media scrums, meaning that no formal complaint has subsequently had to be made out;
- The situation is manageable by dealing with the editors who stimulate the market, rather than by dealing with the behaviour of individual photographers who may not work for an organisation that subscribes to the Code;
- The PCC’s structure, combining flexibility, swiftness and co-operation from the regulated industry with an absence of legal dispute, is well-suited to dealing with such ‘real-time’ problems.

National Aids Trust

The Commission had a number of meetings with representatives from the National Aids Trust. Following several court cases involving individuals who have had unprotected sex with others while knowing about their HIV status, the Trust was eager to highlight the importance of accurate terminology, including the distinction between HIV and AIDS. Moreover, there is a difference between an offence of ‘recklessly’ infecting someone and ‘deliberately’ infecting someone. The former involves individuals who are aware that they are HIV positive but who nonetheless have unprotected sex. The latter must involve evidence that someone consciously wanted to infect their partner with the virus. The Trust made a number of complaints to the Commission under Clause 1 (Accuracy) on these points, which were resolved following appropriate editorial action.

“The PCC structure is well suited to dealing with ‘real-time’ problems such as harassment”



Mental health

Following a recommendation from the Charter Compliance Panel, the Commission undertook some research into the extent of co-operation with its Guidance Note on Mental Health reporting. It found compliance with the Note – which focuses on the importance of accurate terminology and the need to avoid prejudicial language about individuals suffering from mental health problems – to be good.

It took the opportunity of the review to reissue and update the note, with new contact details of relevant mental health organisations.

There were also visits by Commission staff to Broadmoor and Rampton Special Hospitals.

Online regulation

The flexibility of the self-regulatory arrangements is also well-suited to online content regulation. The Code has applied to written words and still pictures on newspaper and magazine websites since 1997. The Commission has found that the chief requirement of those complaining about inaccurate or intrusive information online is for the material to be swiftly removed, along with undertakings about future conduct. This is something that the Commission is well-placed to be able to deliver.

Developments in technology have revolutionised how people communicate – including through the print media. Newspaper and magazine websites now offer a large variety of services, including the transmission of information through audio and visual means. As has been stated in previous Annual Reports, the PCC has been in active discussions with the industry for some time about the implications for content regulation that arise as a result.

The outcome of those discussions was made public in January 2007, with the announcement from the Press Standards Board of Finance that the Commission's remit would be extended to cover audio-visual editorial material on its members' websites where two criteria were met:

- That the editor of the newspaper or magazine is responsible for it and could reasonably have been expected both to exercise editorial control over it and apply the terms of the Code; and
- That it was not pre-edited to conform to the online or offline standards of another media regulatory body.

Welcoming the announcement, Sir Christopher Meyer said:

“What the industry has done in announcing this extension of the PCC's remit is to underline its confidence in the system of common-sense regulation that we operate, and to demonstrate to the public that editorial information in the digital age – regardless of the format in which it is delivered – will be subject to high professional standards overseen by the Commission”.

It also means that newspaper and magazine websites are subject to a greater degree of regulation than those of broadcasters, which must wait for legislators to update existing rules.

Consumers will also be helped by this move. By submitting its online journalism – no matter what the means of delivery – to the requirements of the Code, the industry will enable them to distinguish between the varying degrees of quality and trustworthiness of digital media.

Coroners Bill

The most distressing complaints tend to be those brought by grieving relatives. The Commission does what it can to raise awareness of the help that it can give to such people – for instance by making sure that coroners' courts have material about the Code of Practice, How to Complain booklets, and how to deal with unwanted attention from journalists. But it often turns out that the complaints do not concern the publication of genuinely intrusive details but objections to publicity itself. This is understandable, and the Commission regrets any press coverage which exacerbates the grief at the loss of a relative. However, there are good reasons for inquests to be held in public and for their proceedings to be reported. The Commission would like to see coroners making clearer to relatives that proceedings may be reported, subject to the rules of the Code of Practice. This would help manage their expectations and ensure that reading an inquest report would not come as such a shock.

The government invited comments on a draft Coroners Bill which would enable coroners to order reporting restrictions in some circumstances. While the sentiment behind such a move was understandably to protect the relatives, there were concerns that the broader public interest in having a system of open inquests was being overlooked. Sir Christopher Meyer replied to the consultation to oppose the suggestion. He said he was concerned that:

“there will surely be a temptation for coroners, when faced with applications for anonymity from the bereaved, to side with those vulnerable individuals who appear before them against the interests of the general public – who will of course be absent and anonymous. With each decision to restrict reporting, the principle of open justice will be eroded further. What is more, I cannot believe that it will be at all easy for a coroner to take a rounded view at the outset of a hearing on whether or not there is no public interest in hearing the case in public”.

He recommended instead that efforts be made to educate the bereaved about the competing rights in terms of reporting inquests. It was announced in early 2007 that the government has deferred making a decision on the proposal.



The development of clear journalistic principles set out in a growing body of case law”

10 key rulings

As well as operating a conciliation service to resolve complaints, the Commission has an important function issuing formal public rulings through its adjudicated complaints. These have a number of uses: educating editors about the Commission’s interpretation of the Code; penalising particularly serious breaches of the Code, or those where the offer of amends was deemed insufficient; publicly ruling on complicated or high-profile complaints where there is an expectation of a Commission statement; and raising the Commission’s profile in key areas.

Here are ten key adjudications from 2006.

Palomba v Evening Standard: photographs of woman leaping to her death. Clause 5 (Intrusion into grief or shock) – not upheld.

The Evening Standard had, along with the Sun and the Times, published images of a woman falling from a hotel balcony in London. One of her friends complained that this demonstrated a failure to handle publication sensitively at a time of grief and shock, as Clause 5 requires.

This was a difficult balancing act for the Commission. On the one hand, close friends of the woman had been exposed to pictures of her in the act of her taking her own life. On the other, the suicide had taken place in a public place and was a newsworthy, if shocking, incident.

In its ruling not upholding the complaint, the Commission considered that it should be slow to restrict the right of newspapers to report newsworthy events that take place in public. This includes the right to publish photographs. The newspaper had not sought to trivialise or sensationalise the incident and had not presented the photographs in a gratuitously graphic manner. Consequently, the Commission concluded that there was no breach of the Code, although it did criticise the Evening Standard for not taking greater steps to verify whether the woman’s relatives knew of her death before the decision to publish the pictures was made. It was only a matter of luck that publication did not lead to news of the tragedy being broken to close family members.

Kisby v Loaded: privacy at work. Clause 3 (Privacy) – sufficient remedial action offered for breach of the Code

In a feature about lottery winner Michael Carroll, the magazine took a photograph of him making a withdrawal in a local bank. The image, which was subsequently published, also showed bank employee Mark Kisby, who had not given his consent for the taking of the photo. Mr Kisby said he was in a place where he had a reasonable expectation of privacy and that, as a result, the magazine had breached part ii) of Clause 3 (Privacy). The Commission has previously ruled that publicly accessible places such as restaurants, hotels and offices can be those in which a person would have such an expectation. In this instance, the Commission agreed with the complainant that the publication of a photograph of him in his workplace without permission was a breach of the Code. An apology from the magazine was deemed to be a sufficient response to this complaint.



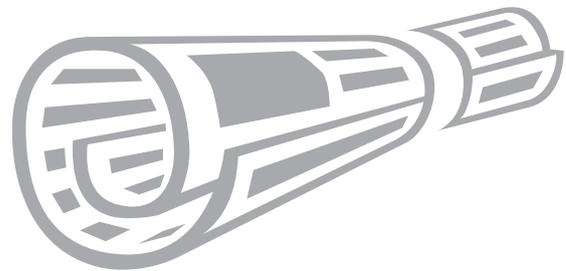
Newspapers and magazines should not reveal news of an individual's pregnancy without consent before the 12 week scan"

**Moffat MP v Chat:
payment to mother convicted
of unlawful sex. Clause 16
(Payment to criminals) – upheld.**

A complaint from Laura Moffat MP led to the Commission's first ruling under Clause 16 (Payment to Criminals) since the rules in this area were changed in 2004. The article in Chat magazine told the story of Sylvia Payne, who had been convicted of unlawful sex with a member of her own family, after sleeping with her teenage son. When the PCC launched an investigation it emerged that Ms Payne had been paid for the story and, since there was no conceivable public interest justification for the payment, the result was a breach of the Code of Practice. Clause 16 states clearly that payment should not be made to convicted criminals or their associates for stories that 'exploit a particular crime'. This article described and actually seemed to try to justify a criminal act.

**Quigley v Zoo:
photograph of child.
Clause 6 (Children)
– not upheld.**

The Commission has always made clear that the protection of children is one of its central concerns. However, this does not mean that newspapers and magazines should automatically shy away from publishing any material – including pictures – about children. When Zoo published a picture of a man and his daughter both making offensive gestures at a football match, the man complained that it had breached Clause 6 (Children) because the picture – taken without consent – involved his daughter's welfare. However, the image had been taken at a major sporting occasion attended by many thousands of people and the Commission did not think it was unreasonable for the magazine to assume that the complainant was unconcerned about publication of pictures of him and his daughter, and that consent had therefore been implied. Moreover, the Commission was clear that innocuous pictures of children in crowds would not normally breach the Code. To have come to another conclusion in this case just because the subjects of the photograph were behaving in an anti-social manner would not, in the Commission's view, have been sensible or fair.



**Cousins v Sunday Times:
approach to child
at school. Clause 6
(Children) – upheld.**

Following the stabbing of a boy at a London school, newspapers were keen to look into the background of the tragedy. However, in its adjudication on this complaint, the Commission made clear that this did not mean reporters could interview other children at the school without parental consent. A Sunday Times reporter had spoken at length to Mr Cousins' son in person – and then subsequently over the telephone – about how the murder had affected children at the school. This struck the Commission as a clear breach of Clause 6 (Children), which says that children under 16 must not be interviewed on issues involving their own or another child's welfare.

**Riding v Independent:
privacy and pregnancy.
Clause 3 (Privacy) – upheld.**

A diary item revealed that the actress Joanna Riding was in the early stages of pregnancy, before this was widely known and before the complainant had informed her family. The Commission made clear that this was a serious intrusion and that "as a matter of common sense newspapers and magazines should not reveal news of an individual's pregnancy without consent before the 12 week scan, unless the information is known to such an extent that it would be perverse not to refer to it". This was because of the possibility of complications or miscarriage – something that was sadly a feature in this case – and because it should be down to the individual when to share the news with her family and friends in the early phase of a pregnancy. This adjudication was the first time that this principle has been publicly articulated by the Commission.

- **Workplaces** can be private
- **Criminals** should not be paid for articles that justify crime

- **Prompt action to resolve complaints** will be taken into account
- Protection of **confidential sources** is a basic principle of journalism

A woman v Newcastle Chronicle: confidentiality of sources. Clause 14 (Confidential sources) – upheld.

The complainant was a whistleblower, who emailed the newspaper – requesting anonymity – with details of her concerns about the Rural Payment Agency, which had been the subject of recent coverage. The newspaper forwarded her email to the Agency for comment, without deleting her details. This represented a clear breach of Clause 14 (Confidential sources) – rarely cited in a complaint – which states that “journalists have a moral obligation to protect confidential sources of information”. The Commission considered that the newspaper had violated a basic principle of journalism with such a thoughtless error.

A man v Daily Record: identification of a trans-gendered individual. Clauses 3 and 12 (Privacy and Discrimination) – not upheld.

The complainant in this case was a Care Worker at the State Mental Hospital in Scotland who had been suspended following the revelation that he had previously had a relationship with Peter Sutcliffe. This relationship – which the complainant had publicly spoken about – took place when the complainant was a different gender. The Commission considered, in regard to a story of clear public interest, that the newspaper was entitled to refer to the complainant’s gender transition. It made clear the principle that the fact of a person’s gender change – the consequences of which are publicly apparent – was not a private matter. Publications were entitled to refer to it, provided that it was relevant to the story and references were not prejudicial or pejorative.

Moss v Sunday Mirror: accuracy of report about pregnancy. Clause 1 (Accuracy) – sufficient remedial action offered.

The newspaper revealed that the supermodel Kate Moss was pregnant by her partner Pete Doherty. It made clear that this information had come, on the record, from Mr Doherty’s uncle who had spoken to the newspaper. When contacted by the complainant’s lawyer – who made it unequivocally clear that the story was not true – the newspaper offered to publish a correction in the next edition. The Commission considered that this offer represented sufficient action and the complaint was not upheld on that basis. This demonstrates that prompt and appropriate action to resolve complaints will be taken into account by the Commission.

A woman v Macclesfield Express: victim of sexual assault. Clause 11 (Victims of sexual assault) – upheld.

The newspaper identified the victim of a sexual assault in an article reporting the trial of the person who had assaulted the complainant. On receipt of the complaint, the editor immediately recognised the gravity of the situation, apologised and outlined the comprehensive steps now put in place to ensure that it would not recur. While the Commission welcomed this response, it considered that this was such a serious breach of the Code that it would be difficult for any remedial action to be a proportionate response to the original transgression. Some complaints cannot be appropriately resolved. In this case the Code was clear – newspapers must not publish material likely to contribute to the identification of victims of sexual assault – and the damage caused by the newspaper’s error was significant.

“This was such a serious breach of the Code it would be difficult for any remedial action to be a proportionate response”



Resolved cases

The bulk of the Commission's work on matters that may raise a breach of the Code concerns the negotiation of decent remedies. The Commission talks of its ability to obtain a variety of different and meaningful resolutions – corrections, apologies, undertakings about future conduct and so on. Here are some examples of real cases that were settled in 2006, which illustrate the range of what can be achieved quickly and with little fuss. The PCC publishes details of each resolved complaint on its website homepage in order to give further visibility to the resolution, before they are archived to provide a permanent record.

Published apologies

Mr Gerry Marshall, Chief Officer of Thames Valley Probation Area, complained that an interview in the Mail on Sunday with an individual who claimed to have carried out unpaid community work with the Lord Chief Justice, along with two others, was misleading and inaccurate as they were not present on the day in question.

The complaint was resolved when the newspaper published the following correction and apology: 'On October 15 we published an interview with Shane Campbell who said he, along with a Martin Cartwright and a Thomas Taylor, had carried out unpaid community work in Milton Keynes alongside the Lord Chief Justice, Lord Phillips, who was on an incognito visit. We now accept that none of the three men actually took part in the session or have ever been supervised by Thames Valley Probation Area. We also accept that Lord Phillips did not receive preferential treatment and any criticism of him or the Probation Area was unfounded. We apologise for our mistake'.

Mr Peter Carey complained through Best & Soames Limited that a feature in the London Evening Standard magazine on his recent divorce – based largely on an interview with his ex-wife – contained information which intruded into his privacy in breach of the Code. The complaint was resolved when the newspaper removed the information from its websites, internal electronic archive and database, agreed not to publish it in future and published the following apology in the magazine and online:

'On 26 May we published an article about the novelist Peter Carey headlined "A Booker-winning Bust-Up". The item contained private and personal details about Mr Carey to which he has objected. We apologise to him for distress and embarrassment caused'.

Corrections and clarifications

Ms Deborah Jack, the Chief Executive of the National Aids Trust, complained that The Sun had inaccurately described HIV rates in Eastern Europe. She also raised concerns that the article had confused HIV and AIDS.

The complaint was resolved when the newspaper published the following correction: "On 16 November we reported fears immigrants from Eastern Europe made up a large proportion of new UK HIV cases. We have been asked to make clear Eastern Europe is not a significant source of new HIV diagnoses and Romania and Bulgaria do not have high HIV rates. They rank 39 and 44 respectively in the European league table of 52 countries." In addition, the PCC asked the newspaper to mark its records in order to help avoid confusion between HIV and AIDS in future.

Mr Gary Waugh complained through his solicitors Knight Polson that an article in the Gloucestershire Echo had contained a number of inaccuracies in relation to his trial, the charges he was sentenced for, and his role in the credit card scam.

The complaint was resolved when the newspaper published the following clarification: 'In an article published in the Echo on June 13, 2006, it was stated that Gary Waugh, of Station Road, Gloucester, was jailed for seven years for masterminding an £870,000 credit card scam. We have been asked to point out that Waugh was sentenced to 24 months for two offences of handling goods valued at £24,000, 12-24 months for five proceeds of crime offences and five years consecutive for drug supply offences. Further, the article stated that Waugh's gang told Royal Mail worker Ali Dahir to take the cards posted by Oberthur or he and his family would be hurt. No evidence of this was offered to the court. It was accepted by the Crown Counsel that Waugh was not directly related with such threats. The article implied that Waugh was substantially involved in relation to the £870,000. No facts were presented to the court to suggest Mr Waugh was linked to the full extent of the scam. No evidence was presented to the court to suggest that Waugh had a gang that was making money, or could make money, from the Oberthur cards. No evidence was placed before the court to suggest that Mr Waugh was the 'kingpin', a term used by a police officer after the court hearing, or that a gang run by Mr Waugh used more than 3,000 cards to buy £870,000 worth of goods'.



The magazine accepted the publication of the address was a mistake, apologised and made a donation to charity”

Published letters

South Lanarkshire Council complained, through Levy & McRae solicitors, that the Daily Mail (Scotland) had inaccurately claimed that a ban on nuts at Bothwell Primary school, enforced to protect those with allergies, extended to conkers.

The complaint was resolved when the newspaper published the following letter from the school's head teacher: "Your article of 7 September entitled 'Conkers? Nut Likely!' reported that a letter sent by me asking parents to check packed lunches for nut content and for chestnuts not to be brought to school, stated that 'pupils could no longer play conkers'. In fact the letter referred not to conkers but to edible sweet chestnuts, which if eaten by anyone with a nut allergy will cause a potentially fatal anaphylactic shock. Some years ago, an eight year-old pupil at our school suffered a serious reaction to eating a nut. Fortunately, he survived but the distressed pupils who witnessed the event decided they wanted their school to be nut free. It is in that context that the letter was sent and not as a 'killjoy move' as reported."

Destruction of material

Mr Ron McMurray complained that a photograph published in the News of the World had been taken of him at his previous workplace where he believed he had a reasonable expectation of privacy.

The complaint was resolved when the newspaper destroyed all the photographs it held of the complainant taken in the circumstances and gave an assurance that they would not be republished or passed on to any third parties.

There are further examples on the PCC website, which is updated daily with summaries of resolved complaints: www.pcc.org.uk



Alteration to website

Mr AJ Kilker of Gloucester complained that The Citizen had published a letter from him which included his full address.

The complaint was resolved when the newspaper removed the details from the text of the letter on its website.

Private apology and donation to charity

Sir Mick Jagger complained in 2006, through Smyth Barkham solicitors, that Hello! magazine had clearly identified the exact location of his new property in West London, including its house number and the name on its blue plaque.

The complaint was resolved when the magazine, which accepted that the publication of the address was a mistake, apologised and made a donation to a charity of the complainant's choice.

Mrs Carol Dickinson of Devon complained in 2006 that the Herald Express had published a photograph – without her consent – of her grieving at the scene of the accident where her sister had been killed in an incident with a train. The newspaper first apologised to the complainant for exacerbating her distress following such a tragic accident. The editor sought to explain that the photograph came to be published because of a misunderstanding and accepted that in doing so the newspaper had breached Clause 5 (Intrusion into grief or shock) of the Code.

The complainant appreciated the newspaper's admission but declined its offer to publish an apology as she felt that this would exacerbate the situation further. The complaint was resolved when the newspaper wrote privately to the complainant to apologise and emphasise that she in no way courted the publicity and had not welcomed it. The newspaper also made a donation to the complainant's charities.

Commission members



1. **Sir Christopher Meyer KCMG:**
Chairman

2. **Matti Alderson:**
Chairman,
Direct Marketing Authority.
Director, Firehorses Ltd

3. **Roger Alton:**
Editor, The Observer

4. **Paul Dacre:**
Editor-in-Chief, Daily Mail

5. **Spencer Feeney:**
Editor, South Wales Evening Post

6. **Colleen Harris MVO:**
Director of Strategy and
Communications, Commission
for Racial Equality

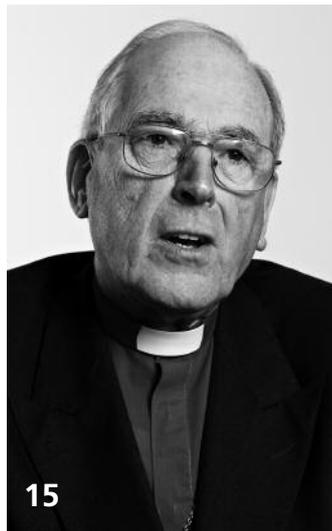
7. **Vivien Hepworth:**
Chief Executive,
Grayling Political Strategy

8. **Peter Hill:**
Editor, Daily Express

9. **Simon Irwin:**
Editorial Director,
Kent Messenger Group

10. **Ian Nichol:**
Accountant, Member
of the Criminal Cases
Review Commission

11. **Adam Phillips:**
Managing Director, Real Research
Vice-Chairman, Financial Services
Consumer Panel



- 12. **Eve Salomon:**
 Director, Sanderel Ltd
 Commissioner, Better
 Regulation Commission
 Commissioner, Gambling Commission
- 13. **Dianne Thompson CBE:**
 Chief Executive, Camelot Group plc
- 14. **Derek Tucker:**
 Editor, Aberdeen Press & Journal

- 15. **The Rt Rev John Waine KCVO:**
 Member of the Foundation,
 University of Essex
- 16. **Rear Admiral Nick Wilkinson CB:**
 Director, Victory Service Association
 Director, Greenwich Foundation
- 17. **Tim Toulmin:**
 Director



Commission information

Since the last Annual Review, there have been several changes to the membership of the Commission.

- Colleen Harris, the Director of Strategy and Communications at the Commission for Racial Equality, was appointed to a three year term as a lay member from 1st August 2006;
- Paul Horrocks, editor of the Manchester Evening News and current President of the Society of Editors, retired from the Commission at the end of 2006. He was replaced by Simon Irwin, editorial director of Kent Messenger Group, on January 1st 2007;
- Jane Ennis left the Commission in early 2007 following her retirement from Now magazine. There is currently a vacancy for a magazine editor which is expected to be filled shortly;
- Eve Salomon was appointed to a second three year term as a lay member, with effect from January 1st 2007.

Appointments Commission

Lay members of the Commission are appointed by an independent Appointments Commission following open recruitment procedures including advertising and interviews. The Appointments Commission also has the power to veto nominations for editorial members of the Commission which are proposed by the industry trade bodies – the Newspaper Society; Newspaper Publishers' Association; Periodical Publishers' Association; and Scottish Daily Newspaper Society.

The Appointments Commission is also responsible for the appointments of the Charter Commissioner and members of the Charter Compliance Panel (CCP). It appointed Harry Rich to succeed Dame Ruth Runciman on the CCP following her retirement in the autumn of 2006. Mr Rich is currently Deputy Chief Executive of the Design Council, having also served on the council of the Advertising Standards Authority.

Membership of the Appointments Commission is as follows:

- Sir Christopher Meyer (Chairman);
- Baroness Smith of Gilmorehill;
- Sir David Clementi;
- Andrew Phillips;
- Tim Bowdler CBE (Chairman of PressBoF).

Financial report

Extracts from the Commission's accounts for 2005 appear below. They have been audited by Deloitte and Touche. The audited accounts for 2006 will be published in the next annual review.

The Commission's income is derived solely from the Press Standards Board of Finance, which in turn raises a levy on UK newspapers and magazines. The PCC therefore has no direct relationship with publishing companies on matters to do with its income – something that helps guarantee its independence. A financial sub-committee of the Commission – made up entirely of lay members – is responsible for scrutinising expenditure and budget preparations.

Expense	£
Wages, salaries and related costs (including Commissioners)	927,208
Rent, rates and maintenance	107,921
Legal and professional fees	172,460
Travel, entertainment and public relations	155,234
Telephone, stationery, insurance, utilities, publications, printing and related office costs	105,422
Depreciation	19,720
Sundry expenses	84,482
Websites	24,486
Bank charges	1,377
Charter Commissioner/ Charter Compliance Panel	38,399
Dilapidations on 1 Salisbury Square	46,083
Total	1,682,792



We at Halton House are in virtually perpetual motion, spreading the word across the UK”

External relations

The PCC is committed to publicising its service as widely as possible, and to hearing the public’s views on what it does. It also has an ongoing programme of liaison with particular groups who have an interest in the PCC’s work – religious, racial, or minority groups, for instance.

Open Days

There have been two Open Days annually since October 2003. These are free, public meetings held in towns and cities up and down the country. These events are divided into two parts: an informal surgery session, where members of the public can talk in private to PCC staff about concerns they might have with the press or how to make a complaint; and a public Question and Answer session. The session is usually chaired by the PCC’s Chairman, Sir Christopher Meyer, with the other panel members being Tim Toulmin, the PCC’s Director; Vivien Hepworth, a lay member of the Commission; and a newspaper editor.

In 2006, there were Open Days in Liverpool and Glasgow, with around 100 people attending the Glasgow event. Attendees came from a wide range of backgrounds, and discussions ranged from the powers and sanctions available to the PCC, the potential impact on newspapers of the rise of citizen journalism, and the prominence in newspapers and magazines of corrections and apologies negotiated by the PCC. There was also a Q&A session on the PCC at the British Library, at which current and former members of the Commission debated the history and effectiveness of self-regulation.

In 2007, there will be Open Days in Birmingham, Leeds, Oxford and Brighton, information about which will be posted on our website - www.pcc.org.uk



Panel at Birmingham Open Day answer questions from the public

Dialogue with the community

Through scrutinising patterns in complaints it receives, the Commission is able to identify groups who might benefit from specific advice about their rights under the Code of Practice. In 2006, for example, the Commission liaised with Muslim groups to outline its services. Meetings took place with the Union of Muslim Organisations of UK and Eire, the UK Islamic Mission and the London Muslim Centre at the East London Mosque.

There is a rolling programme of communication with public bodies to ensure that information is always available to those who need it. Libraries, Citizens Advice Bureaux, NHS and Primary Care Trusts, Coroners and witness services have all been sent up to date information about the Commission, given their likely proximity to people who may need the Commission’s help.

Training the next generation of journalists

Since the success of a self-regulatory system is dependent upon the commitment of those working in the industry, the PCC recognises the importance of teaching young journalists about the Code of Practice, knowledge of which is tested in the NCTJ’s professional exams.

Three individuals talk about the work of the PCC: Alison Hastings, who is a retained consultant for the Commission; former Acting Chairman Professor Robert Pinker CBE; and the Commission’s External Relations Consultant Sue Roberts. In 2006, seminars and presentations were held with students from around 30 academic institutions including the Press Association Editorial Training Centre, Trinity Mirror South Training Centre, West Kent College, Salford University, Lambeth College and Nottingham Trent University. Real examples are used to illustrate the requirements of the Code and Commission’s approach to it.

Should anyone be interested in a talk from the Commission, they should contact tonia.milton@pcc.org.uk.

Quotes taken from PCC customer feedback surveys

- The PCC brought an **independent view** on the issue and the result was the best possible
- I accept the validity of the Commission's conclusions and I am **glad I raised the issue**

Industry training

The Commission also hosts evening seminars for working journalists, which are informal and designed to stimulate discussion about the Commission's approach. These focus on issues such as recent developments in privacy, newsgathering or how the Commission advises complaints should be resolved. Different seminars are devised for different disciplines – and have so far included news, features, picture, and online editors and journalists. There has also been a session in Glasgow.

The Commission is happy to provide this sort of refresher seminar to individual newspapers on request.

The PCC also hosts journalists and regulators from other countries, including, in 2006, representatives from Pakistan, Azerbaijan, China, Ethiopia, Korea, USA, Peru and Norway.

Online and on-call www.pcc.org.uk

A new website was launched to coincide with the PCC's move to modern premises in Holborn and a new corporate image. It is designed to be more accessible and easier to navigate. It has also had a full audit to ensure that the information on every page is accurate and up-to-date.

The website fulfils two main functions: to act as an information resource for people looking to make a complaint; and to serve as a public record of case history. It also sets out the history of the Code and self-regulation and contains information about Commission members and staff, the register of interests and so on.

Following feedback about how to improve the site further, pdf versions of several key documents are now available.

The PCC publishes regular news releases, which are sent to the 1600 people who have registered on its mailing list. Anyone wishing to receive information electronically should e-mail tonia.milton@pcc.org.uk.

Complainants and journalists are able to contact senior PCC staff around the clock. The PCC operates a 24 hour pager service (07659 152656), through which people can obtain advice if they are being harassed by a journalist or want to make a complaint. There is also a 24 hour Press Office number for journalists: 07659 158536.



- Financially I could not have employed a legal team to resolve the matter but my complaint was **successfully resolved** with the assistance of the PCC

- I had not expected a good response. I had expected a lack of support, interest or efficiency. I was bowled over by the **amazing efficiency and support** I received – quite wonderful

Public views of press regulation: Ipsos MORI opinion poll

The PCC commissioned an opinion poll to find out the extent of public awareness of the Commission, what features the public wanted in a body dealing with complaints about the press, who should be on an adjudicating panel and so on. Ipsos MORI interviewed 1945 people in August/September 2006.

- 72% of respondents had heard of the PCC. Of the four regulatory organisations measured (the PCC, Ofcom, the Advertising Standards Authority and ICSTIS – the Independent Committee for the Supervision of Standards of the Telephone Information Services), the PCC was the second best known;
- There was strong public backing for the structure of the Commission's board. By far the most popular choice for who should be on the adjudicating panel was a mixture of the public and senior journalists. This was backed by 45% of respondents – 3 and a half times more than those who chose judges, the next most popular answer which was given by 12% of people, and members of the public only, given by 11%;
- There was no great appetite for resolving disputes by fining newspapers. When asked which outcome would be most important to them if a newspaper or magazine had breached the Code in an article mentioning them, 68% of respondents said that the publication of a correction and apology would be important, whereas only 30% felt it would be important to impose a fine.

The findings are published in full on the Commission's website.



Perceptions of the PCC

It is important to the Commission to learn how it is perceived and gauge the level of understanding of what it does among legislators, officials, academics, and others with a professional interest in self-regulation. Hill and Knowlton were commissioned to carry out a 'perceptions audit' among those constituencies. The results will help inform the Commission's approach to its external affairs. In particular, there is clearly more to do with regard to informing people about the Commission's independence from the industry, the structural checks and balances that exist in order to promote transparency, good governance and accountability, and the effectiveness and scale of the remedies that it can deliver.

The Commission also has a rolling internal programme of approaching particular interest groups for feedback about its work, which helps the Commission understand people's priorities and how to target its information most effectively. Last year, local government authorities were asked for their views.

Customer feedback survey

The PCC regularly surveys hundreds of complainants on an anonymous basis to monitor its standards of service. Everybody who has made a complaint to the Commission under the Code is asked for their view – regardless of whether or not their case raised a breach of the Code. Following a recommendation from the Charter Compliance Panel, a new survey was introduced at the start of 2006 in order to give a more rounded picture of complainants' views.

345 people returned the anonymous form in 2006. The results show that:

- 81% of people thought their complaint had been dealt with 'very thoroughly' or 'thoroughly';
- 75% of people considered their complaint to have been handled 'very satisfactorily' or 'satisfactorily';
- 82% of people thought that the time taken to deal with their complaint was 'about right';
- In common with previous years, members of the PCC's staff were praised, with 69% of people rating the helpfulness of staff either 8, 9, or 10 out of 10;
- 68% of people rated the PCC's printed information either 8,9 or 10 out of 10.

Both the completed forms and the survey results may be audited by the Charter Compliance Panel.



After the complainant wrote to the Charter Commissioner the newspaper readily agreed to an apology”

Accountability: the Charter Commissioner and Charter Compliance Panel

Charter Commissioner

There have been major changes at the Commission since the beginning of 2004, aimed at bringing greater transparency and accountability. Most important in these reforms have been the work of the Charter Commissioner and Charter Compliance Panel, each of which have now been operating for three years.

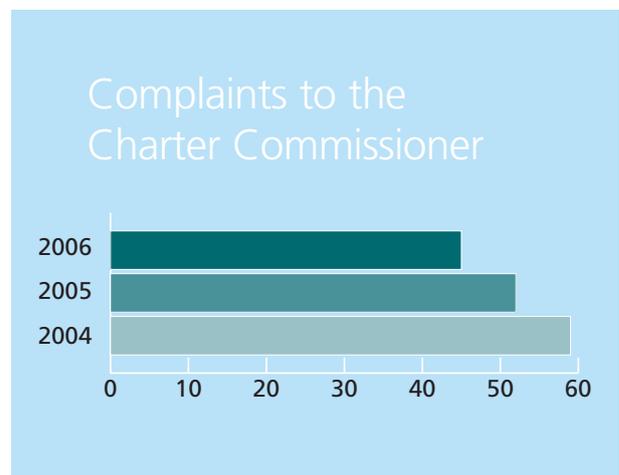
Any complainant who is not satisfied with the way in which their complaint has been handled can lodge their concerns with the independent Charter Commissioner, Sir Brian Cubbon. Sir Brian will assess whether the concerns are justified and, if they are, he can recommend further investigation by the Commission and, in some cases, additional remedial action by the relevant newspaper. He publishes a separate annual report.

While in the majority of cases the Charter Commissioner finds no problems with the handling, his recommendations have led to decisions being amended or revised entirely to the benefit of the complainant. For example:

- A prisoner was mistakenly said by a newspaper to have had legal aid for an action against the prison authorities. The Commission had decided that the newspaper’s offer to publish a clarification was a sufficient remedy. But the wording of the decision had relied on the complainant’s apparent failure to complain about the same mistake earlier, and further enquiries showed that the newspaper had received an earlier letter of complaint. There were other defects in the handling. After the complainant wrote to the Charter Commissioner, these points were put to the newspaper, which readily agreed to add a personal apology to the clarification, which it also sent to the prison authorities. The complainant accepted this as resolving his complaint.
- A newspaper had published statistics of postal voting that included mistakes. They were quickly corrected. A little later the newspaper published another article, which included a photocopy of the original headline, which had used the wrong figures. The Commission found that this was not a breach of the Code. The complainant wrote to the Charter Commissioner to say that this was illogical. When this was put to the newspaper,

it published a correction acknowledging that the headline reflected incorrect figures and giving the correct figures.

- The Commission decided that a disputed quotation in a newspaper article was not a breach of the Code. The decision mentioned that the newspaper had tried to check the quotation with the complainant. The complainant protested to the Charter Commissioner that the newspaper had not demonstrated with telephone records that it had tried. The Commission sent the complainant a full clarification of its decision, which was justified by the reporter’s shorthand notes of the quotation and by other corroboration, apart from any attempt to check the story with the complainant.





The audit sample is chosen by the panel members, not by the Commission or the staff”

Charter Compliance Panel

In addition to the Charter Commissioner, who can examine specific concerns raised by complainants, the Commission is also subject to scrutiny by an independent Charter Compliance Panel (CCP). The members of the Panel, currently Sir Brian Cubbon and Harry Rich, audit the standard of service given to complainants by the PCC by examining a selection of case files. The sample is chosen by the Panel members; not by the Commission or its staff. This ensures that a full range of complaints can be scrutinised.

After each audit, the CCP makes a series of recommendations to the Commission with regard to how its complaints-handling or other procedures might be improved. Since the Panel started its work in 2004, a number of recommendations have been made, and action taken by the Commission in response. Examples include:

- The CCP noticed some cases where the essential mistake by the newspaper was not brought out in the summary published by the Commission when the complaint was resolved. The Commission agreed that summaries should be fuller, so that Commission members and editors, and indeed the general public, saw the reason(s) for the complaint.
- In cases where the editor offered a suitable remedy for a mistake, but the complainant did not accept it, the Commission's decision previously was simply that “No Further Action” was needed. The CCP was concerned that this did not make clear that the Commission considered the offered remedy to be sufficient; and that a different offer might not have been acceptable. The Commission agreed that decisions in this category should be that “sufficient remedial action” was offered or taken.
- The Panel noticed some cases where the editor had not acted within the spirit of the Code. In such cases where no adjudication followed (for instance, because the editor offered a remedy that was considered sufficient), the editor was not always made aware of the Commission's displeasure. It was agreed that in this sort of a case the Chairman would himself write to the editor.
- Following comments made by the Panel members, changes were made to some of the stock letters sent out by the Commission's staff in their initial response to a complaint.
- The CCP expressed concern that the time limit for making a complaint – a month from the date of publication – was too short. The Commission agreed to extend the limit to two months; and the number of complaints disallowed on the grounds of delay subsequently fell sharply.
- Following a recommendation from the Panel, the Commission carried out research into, and subsequently updated its guidance note on, the reporting of mental health matters.
- The Panel was worried that people who raised an apparently valid complaint would have their cases closed if they did not respond to requests for further information. Its recommendation, accepted by the Commission, was that such complainants be sent reminder letters.
- The CCP examined a draft of the Commission's How to Complain leaflet and recommended that a flow chart be included to assist complainants in understanding how the PCC deals with cases. A flow chart was incorporated for the next print run.

Further details on the Charter Commissioner and the Charter Compliance Panel are available on the PCC's website: www.pcc.org.uk.

Charter Commissioner,
c/o Press Complaints Commission,
Halton House, 20/23 Holborn,
London EC1N 2JD.

chartercommissioner@pcc.org.uk



Sir Brian Cubbon GCB

Charter Commissioner and Chairman of Charter Compliance Panel

- The vast majority of **Press Councils in Europe** cover audio-visual material
- Next meeting of AIPCE to be held in **Edinburgh**
- **Republic of Ireland** to establish self regulatory system

International report

Self-regulatory press councils have continued to prosper throughout Europe and beyond. Previous annual reports have detailed how they have been successfully established in Eastern Europe to fill the regulatory vacuum that followed the collapse of communism, while at the same time avoiding the perniciousness of statutory controls. Now the Republic of Ireland finally seems, after a long debate, on the point of creating its own press ombudsman and self-regulatory council. These moves are strongly to be welcomed.

The ability of PCCs and Press Councils to encourage high editorial standards, deliver effective redress to complainants and to adapt quickly to changing methods of publication has been noted with approval by legislators and officials. A European Commission Staff Working Paper has concluded that “for print publishing, internal pluralism can possibly be better ensured through voluntary self- and co-regulation and journalists’ codes setting standards for accuracy, fairness, honesty, respect of privacy and promoting high standards of professionalism”. In relation to developments in technology the EC elsewhere noted that “particularly in the digital economy, driven by rapid technological change and enhanced user control, traditional regulations are finding it difficult to keep up with the speed of technological, economical and social changes, and the problem of decentralised information. Traditional regulatory approaches also may suffer from enforcement problems.”

Indeed, according to the Alliance of Independent Press Councils of Europe (AIPCE) network, all press councils in Europe – with the exception of Germany – cover audio-visual material on newspaper and magazine websites. Developments in technology have underlined the benefits of self-regulation. Given the speed of dissemination of news and the global market place in which news providers operate, flexible, light-touch regulators are well placed to provide quick, meaningful and straightforward remedies.

The PCC remains an active participant in AIPCE, whose annual conference in 2006 was held in Sofia, Bulgaria – a country which has two self-regulatory councils for the media: one for the press, and one for broadcasting. Representatives from 27 countries participated in the conference and discussed dimensions of privacy, the convergence of satire with hate speech and the different models of sustainability for press councils. The PCC looks forward to hosting the next meeting of the Alliance in Edinburgh in September 2007.

It was with great sadness that the PCC learned of the death in January 2007 of Olle Stenholm, the Swedish press ombudsman. He was a fierce advocate of self-regulation and press freedom, one of the most respected figures internationally in this field, and someone who spent a great deal of time assisting other countries set up press councils.

Outside Europe, the PCC has directly assisted press councils with informal advice and information (Malawi, New Zealand, Botswana, Estonia among others); by providing formal representation at conferences and seminars (Azerbaijan, Kenya, Peru, Bulgaria, Ukraine); and by hosting study visits at its offices in London (Sri Lanka). The Commission does not offer financial assistance.



AIPCE delegates discuss European privacy cases





While the Code evolves its role is unchanging. It remains the voluntary set of standards for the British press."

Les Hinton, Chairman of the Code Committee



Report of the Chairman of the Code of Practice Committee

The Editors' Code of Practice has been the ethical compass of British journalism for 16 years, but not by staying the same. It has evolved to suit changed circumstances, and survived many critical tests. Much of the Code has been copied, often word for word, by self-regulatory press regimes in other countries.

While the Code evolves, its role is unchanging. It remains the voluntary set of standards that the British press industry sets for itself, and by which its activities can be judged when disputes arise. It is agreed, and developed, by editors themselves. It does not attempt to replicate the law.

Any system aimed at maintaining high journalistic standards obviously requires a normal adherence to the law. It is not, however, the Code's job to mimic the law. Indeed, it would often be dangerous to do so, exposing journalists to a kind of double jeopardy. For similar reasons, problems arise when the law sets out to duplicate the Code.

Yet, while those in political and legal circles recognise these dangers to some degree, a fundamental and disturbing misunderstanding of the Code's role lingers on. There is a persistent expectation that the law and the Code should mirror each other. Last year saw several examples.

The Information Commissioner, alarmed at the use of private detective agencies to obtain confidential information, suggested tougher action within the Code to prevent what is clearly illegal activity, with existing penalties of unlimited fines and a further government proposal for prison sentences. In another case, after a reporter was jailed for accessing the voicemail boxes of mobile phones, it was suggested that somehow the Code, which already bars such activity unless demonstrably in the public interest, had failed.

On the other side of the equation, the Government produced proposals to legislate on payments to criminals for their stories, even though it is accepted that the self-regulatory Code already works well. Elsewhere, there were suggestions the Code should cover contempt of court, an area that is self-evidently for the courts to decide.

There will always be grey areas, but the self-regulatory system could be seriously undermined if the law and the Code become too intertwined. The law must always take precedence.

It would threaten to weaken the Code where it is strongest. Currently it can require of newspapers and magazines commitments that it would be neither possible, nor desirable, for the law to impose.

There are numerous examples to support this position. Last year, for instance, we introduced a new rule in the Code on reporting suicide. This, as with all matters involving private grief, is a sensitive area. There are wide differences on how it should be approached.

Some groups advocate a ban on all reporting of suicide, unless there is a public interest. However, with suicides increasing, this is clearly an area of legitimate public interest.

With such a range of divergent views, it would be difficult to draft workable legislation. But the Code Committee was able to address one critical problem on which there was agreement. We received convincing evidence, from the Samaritans and others, that media reporting of suicide often prompts copycat cases. It is an international phenomenon.

So we sought to reduce that risk by emphasising the need for care in avoiding excessive detail of the method of suicide used. It would be for the Press Complaints Commission to decide, in handling complaints, what was excessive. The Samaritans welcomed the change.

It would be difficult, probably impossible, to write a law to achieve the same result.

Similarly, the Code has been extended to cover, within certain limits, the new areas of information appearing in online versions of newspapers and magazines. It is a significant step forward in an area that is – for very good reasons – inappropriate for traditional statutory controls.

Perhaps the lesson of this is that we should be clear on where the boundaries lie. The law is supreme and must do its job. The Code is a voluntary set of rules performing an additional, complementary, role.

The two work well, while they are kept separate and distinct.

Finally, during the year Paul Potts stood down from the Committee, having given up his role as Editor in Chief of the Press Association. We thank Paul for his wise counsel, and welcome in his place PA's Editor, Jonathan Grun. The Committee relies totally on the quality of its members, which remains of the highest level. I am grateful for their continued commitment.

Les Hinton

Chairman of the Code Committee
Executive Chairman of News International plc

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The Code of Practice

This is the newspaper and periodical industry's Code of Practice. It is framed and revised by the Editors' Code Committee made up of independent editors of national, regional and local newspapers and magazines. The Press Complaints Commission, which has a majority of lay members, is charged with enforcing the Code, using it to adjudicate complaints. It was ratified by the PCC on the 7 August 2006. Clauses marked ¹ are covered by exceptions relating to the public interest.

All members of the press have a duty to maintain the highest professional standards. This Code 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 implement the Code and they should take care to ensure it is observed rigorously by all editorial staff and external contributors, including non-journalists, in printed and online versions of publications.

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.

1 Accuracy

- i) The press must take care not to publish inaccurate, misleading or distorted information, including pictures.
- ii) A significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence, and – where appropriate – an apology published.
- iii) The press, whilst free to be partisan, must distinguish clearly between comment, conjecture and fact.
- iv) A publication must report fairly and accurately the outcome of an action for defamation to which it has been a party, unless an agreed settlement states otherwise, or an agreed statement is published.

2 Opportunity to reply

A fair opportunity for reply to inaccuracies must be given when reasonably called for.

3* Privacy

- i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications. Editors will be expected to justify intrusions into any individual's private life without consent.
- ii) It is unacceptable to photograph individuals in a private place without their consent. *Note – Private places are public or private property where there is a reasonable expectation of privacy.*

4* Harassment

- i) Journalists must not engage in intimidation, harassment or persistent pursuit.
- ii) They must not persist in questioning, telephoning, pursuing or photographing individuals once asked to desist; nor remain on their property when asked to leave and must not follow them.
- iii) Editors must ensure these principles are observed by those working for them and take care not to use non-compliant material from other sources.

5 Intrusion into grief or shock

- i) In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. This should not restrict the right to report legal proceedings, such as inquests.
- ii) When reporting suicide, care should be taken to avoid excessive detail about the method used.

6* Children

- i) Young people should be free to complete their time at school without unnecessary intrusion.
- ii) A child under 16 must not be interviewed or photographed on issues involving their own or another child's welfare unless a custodial parent or similarly responsible adult consents.
- iii) Pupils must not be approached or photographed at school without the permission of the school authorities.
- iv) Minors must not be paid for material involving children's welfare, nor parents or guardians for material about their children or wards, unless it is clearly in the child's interest.
- v) Editors must not use the fame, notoriety or position of a parent or guardian as sole justification for publishing details of a child's private life.

7* Children in sex cases

- i) The press must not, even if legally free to do so, identify children under 16 who are victims or witnesses in cases involving sex offences.
- ii) In any press report of a case involving a sexual offence against a child –
 - a) The child must not be identified.
 - b) The adult may be identified.
 - c) The word "incest" must not be used where a child victim might be identified.
 - d) Care must be taken that nothing in the report implies the relationship between the accused and the child.

8* Hospitals

- i) Journalists must identify themselves and obtain permission from a responsible executive before entering non-public areas of hospitals or similar institutions to pursue enquiries.
- ii) The restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospitals or similar institutions.

9* Reporting of Crime

- i) Relatives or friends of persons convicted or accused of crime should not generally be identified without their consent, unless they are genuinely relevant to the story.
- ii) Particular regard should be paid to the potentially vulnerable position of children who witness, or are victims of, crime. This should not restrict the right to report legal proceedings.

10* Clandestine devices and subterfuge

- i) The press must not seek to obtain or publish material acquired by using hidden cameras or clandestine listening devices; or by intercepting private or mobile telephone calls, messages or emails; or by the unauthorised removal of documents or photographs.
- ii) Engaging in misrepresentation or subterfuge can generally be justified only in the public interest and then only when the material cannot be obtained by other means.

11 Victims of sexual assault

The press must not identify victims of sexual assault or publish material likely to contribute to such identification unless there is adequate justification and they are legally free to do so.

12 Discrimination

- i) The press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, gender, sexual orientation or to any physical or mental illness or disability.
- ii) Details of an individual's race, colour, religion, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story.

13 Financial journalism

- i) Even where the law does not prohibit it, journalists must not use for their own profit financial information they receive in advance of its general publication, nor should they pass such information to others.
- ii) They must not write about shares or securities in whose performance they know that they or their close families have a significant financial interest without disclosing the interest to the editor or financial editor.
- iii) They must not buy or sell, either directly or through nominees or agents, shares or securities about which they have written recently or about which they intend to write in the near future.

14 Confidential sources

Journalists have a moral obligation to protect confidential sources of information.

15 Witness payments in criminal trials

- i) No payment or offer of payment to a witness or any person who may reasonably be expected to be called as a witness – should be made in any case once proceedings are active as defined by the Contempt of Court Act 1981. This prohibition lasts until the suspect has been freed unconditionally by police without charge or bail or the proceedings are otherwise discontinued; or has entered a guilty plea to the court; or, in the event of a not guilty plea, the court has announced its verdict.
- *ii) Where proceedings are not yet active but are likely and foreseeable, editors must not make or offer payment to any person who may reasonably be expected to be called as a witness, unless the information concerned ought demonstrably to be published in the public interest and there is an overriding need to make or promise payment for this to be done; and all reasonable steps have been taken to ensure no financial dealings influence the evidence those witnesses give. In no circumstances should such payment be conditional on the outcome of a trial.
- *iii) Any payment or offer of payment made to a person later cited to give evidence in proceedings must be disclosed to the prosecution and defence. The witness must be advised of this requirement.

16* Payment to criminals

- i) Payment or offers of payment for stories, pictures or information, which seek to exploit a particular crime or to glorify or glamorise crime in general, must not be made directly or via agents to convicted or confessed criminals or to their associates – who may include family, friends and colleagues.
- ii) Editors invoking the public interest to justify payment or offers would need to demonstrate that there was good reason to believe the public interest would be served. If, despite payment, no public interest emerged, then the material should not be published.

The public interest*

There may be exceptions to the clauses marked ¹ where they can be demonstrated to be in the public interest.

1. The public interest includes, but is not confined to:
 - i) Detecting or exposing crime or serious impropriety.
 - ii) Protecting public health and safety.
 - iii) Preventing the public from being misled by an action or statement of an individual or organisation.
2. There is a public interest in freedom of expression itself.
3. Whenever the public interest is invoked, the PCC will require editors to demonstrate fully how the public interest was served.
4. The PCC will consider the extent to which material is already in the public domain, or will become so.
5. In cases involving children under 16, editors must demonstrate an exceptional public interest to override the normally paramount interest of the child.

