

## **Charter Compliance Panel Second Annual Report 2005**

### **Report of the Charter Compliance Panel**

1. The Panel audits the standard of service given to complainants by the Press Complaints Commission. The Panel consists of Sir Brian Cubbon, Dame Ruth Runciman and Mr Charles Wilson.
2. In 2005 we examined over 200 complaints files in total. We examined all the formal adjudications issued by the Commission between October 2004 and the end of September 2005, looking at the complaints files where we thought necessary. We examined a sample of complaints files where the complaint –
  - was under clause 3 (Privacy) of the Code
  - was under clause 4 (Harassment) of the Code
  - was under clause 10 (Clandestine devices and subterfuge) of the Code
  - involved children
  - concerned letters to newspapers
  - was not considered because it concerned taste and decency
  - was not considered because it was otherwise outside the remit of the Commission.

We looked at a number of the weekly summaries considered by members of the Commission where the decision is not a formal adjudication. We have seen a summary of the 52 complaints made to the Charter Commissioner in 2005 about the handling of complaints.

3. We had full cooperation from the Director and the staff, who gave us full access to complaints files and answered our questions. We were kept informed of the follow-up action on our previous recommendations.
4. We made three written reports to the Chairman of the Commission. We had three meetings with him, together with the Director and an Assistant Director. The record of these meetings was circulated to all Commissioners.
5. In this report we record our conclusions on the issues we examined, and where the Commission agreed with us.

#### The form and implementation of decisions on complaints

6. Resolved complaints.

a. A complaint can be resolved following action taken or offered by the editor. This usually implies that there would otherwise be a breach of the Code. We noticed some cases where the essential mistake by the newspaper was not brought out in the published summary when the complaint was resolved. The Commission agreed with us that summaries should be fuller, so that Commission members and editors, and indeed the general public, saw the reason(s) for the complaint.

b. We are concerned that in a few cases the complainant might have felt under pressure to accept the editor's offer. An adjudication would provide reassurance that an independent judgement had been made. More adjudications would also have a valuable additional impact, publicising the Commissioners' case law on a wider range of issues.

The Commission prefers to leave it to its complaints officers with their experience of the Commission's practice to guide complainants on the desirable form of the remedy, but agreed that key conversations on this should be recorded on the file.

c. Where the agreed remedy involves a correction or published statement, a copy should be put on the complaints file.

#### 7. No Further Action decisions

a. Where the editor has offered a suitable remedy for a mistake, but the complainant has not accepted it, the Commission's decision has sometimes been simply that "No Further Action" was needed. This does not make clear that the Commission considered that the offered remedy was sufficient. Some complainants think that any offer by the editor would have been accepted by the Commission. The Commission has agreed that that the decision should be "sufficient remedial action" (SRA).

b. As the editor's offer in these cases has usually been made because the newspaper would otherwise have been in breach of the Code, we had thought that the offer should always remain open for a specified time after the SRA decision. Otherwise the complainant is left with something of a gamble: to accept the editor's offer as it stands or to ask for a decision by the Commission, with the result that even if the Commission endorses the offer, it could be too late to accept it.

The Commission preferred not to have an invariable rule about this but accepted that it would be the usual practice for the offer to remain open, and that the wording of the decision in a particular case should make the position clear.

If the Commission rules that the offer is sufficient, our view is that there should be a clear time limit of, say, 21 days, for the implementation of the offer.

#### 8. Adjudications

a. The Commission has agreed with us that the formal decision where a complaint is not upheld should be "not upheld", rather than "rejected", which could seem unnecessarily severe.

b. We were concerned about the considerable leeway given to editors over when a critical adjudication is published. There is no maximum period and publication could in theory be delayed to the PCC's next quarterly bulletin. It would be fairer to have a tighter and more consistent time limit.

The Commission agreed with us that the complainant should be informed in advance of the date of publication, and that the cutting should be on the file.

c. We understand that the Commission is monitoring the prominence given in newspapers to adjudications (and agreed corrections) relative to the offending article.

9. We noticed some cases where the editor had not acted within the spirit of the Code; eg had criticized the complainant in the newspaper for making a complaint; or had altered the agreed terms of a correction or statement. In such cases where there is no adjudication, eg because the editor in the end offers a remedy that is considered sufficient, the editor is not always made aware of the Commission's displeasure. It is agreed that in this sort of a case the Chairman will himself write to the editor.

10. We had some difficulty in discerning the Commission's policy on how far an alleged intrusion into privacy, if not complained about at the time, invalidates a complaint about publication of the information at some time in the future. While we recognise that the Commission considers, and adjudicates on, each complaint on its particular circumstances, the policy is important and needs to be carefully defined and publicised.

11. The need to check a story before publication is another topic where the underlying rules are not altogether clear.

12. The Commission has agreed that special care should be taken over the wording of decisions on such topics. We have suggested that the Frequently Asked Questions (FAQs) on the website might also be used to clarify policy for the benefit of complainants, who often consult the website before deciding to complain.

13. There could be a similar problem over the reporting of inquests. The Code is quite clear: all reporting is permitted. In practice the Commission will criticise insensitive reporting that causes unnecessary grief to relatives. The Code Committee have decided not to change the code. But it is not possible to know whether the wording of the Code puts off potential complaints about insensitivity. A FAQ could ease the position.

14. We have noted three cases in 2005 where the complaint had been decided without the comments of the editor, and when the Charter Commissioner asked for them to be obtained, the result was to change the Commission's decision. The Commission has agreed that this is regrettable, and that it should always consider carefully, before deciding whether or not it would be helpful to have the editor's comments before a decision is taken on a complaint. We accept that some complaints do not require investigation in terms of obtaining the editor's comments. The editor is always sent a copy of the decision even if he or she has not been asked for his comments.

15. Tagging. The agreed remedy, eg for a minor inaccuracy, may be that the newspaper's archives will be tagged to record the facts, or the complainant's point of view. National newspapers' archives are normally shared with other newspapers. The Commission has agreed with us that it should ask the industry to allow it access to the system so that it can be satisfied that files are tagged as promised; and that the PCC file is noted accordingly.

Communication with the complainant and editor.

16. Stock letters. Following our comments, changes have been made in some of the stock letters sent out by complaints officers. Further thought is being given to the possibility of using a less elementary stock letter when replying to the first letter from, for example, a firm of solicitors with frequent contact with the PCC. But there are still files where the stock letter did not take account of the particular circumstances of the complaint.

17. We asked last year that editors should tell those who complained to them directly that if they were dissatisfied with their decision, the complainant could go to the PCC. We are glad that the Commission has issued a Best Practice note to editors saying this, and also encouraging a regular slot in newspapers saying what the PCC does and how to approach it.

18. Delay. We found one bad case of delay this year, though we had not specifically selected delayed cases in our audit. The Secretariat had already picked this case up, and as the newspaper and its lawyers had offended previously, a special visit was made to the newspaper management, who understood the position and promised to mend their ways.

19. We reported last year that first names will not be used in letters from complaints officers to editors and newspaper staff. We should like the same practice applied to emails, because a complainant who saw the file (eg in legal proceedings) might assume that there was too cosy a relationship between Commission staff and newspapers.

20. Last year we recommended a flow chart on the complaints process should be included in the How to Complain leaflet. We are glad to see that this has now been included in the leaflet.

21. We recommended that the PCC helpline should be on a free or local-rate phone number. We are glad that the helpline is now reached by the local-rate number 0845 6002757.

#### Internal procedures and reviews

22. Following our recommendation last year, the customer survey questionnaire that is sent to all complainants has now been substantially revised in the light of a specialist consultant's proposals. The new system started at the beginning of 2006 and should give a rounded picture and a more detailed analysis of complainants' views.

23. We are also glad that a start had been made to record the essential details of calls to the helpline.

24. A weekly meeting, which is a subcommittee of the Commission and usually chaired by the chairman of the Commission, considers progress on complaints and can give a steer to their handling, short of deciding the complaint itself. The Commission has accepted our recommendation that significant decisions of this meeting should be recorded on the complaint file.

25. The Commission has agreed to a number of suggestions we made for changes in the structure and content of the complaint file.

26. We are glad that where the complainant apparently drops a significant complaint, a second letter will be sent after the initial letter saying that unless further details are sent the file will be closed. These complaints are now listed in a separate section of the weekly précis sent to Commissioners, and Commissioners are invited to comment on them.

27. Commissioners are also invited to comment on whether too much or too little detail is given to them in the summaries in the weekly précis (which typically gives a recommendation that there has been no breach of the Code or that the editor has offered sufficient remedial action).

28. References to mental illness. We understand that the initial study of the Commission's response to complaints in this areas and of the use of discriminatory language (see paragraph 6 i of our Report for 2004) will shortly be completed and will be considered by the Commission with a view to updating the Guidance Note issued in 1997. The Panel has been made aware of continuing concern about media reporting in this area. It can be difficult to get a complaint off the ground, because complaints under Clause 12 (Discrimination) of the Code have to be about individuals, and if the mentally ill individual is reluctant to complain, others without express authority might be excluded from complaining under the Commission's third party rule.

29. Internet. We are conscious that the growing use of newspapers' internet sites may raise new problems in the complaints area. The need to complain within two months of the appearance of an article should not apply when the article continues to be accessible on the web. If an article is corrected or revised following a complaint, the article on the website should be automatically changed, and if the outcome of the complaint is a promise not to repeat a particular story, that story should be removed from the website.

#### Future Audits

30. Future audits should monitor the changes and issues mentioned in this report.

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