



ADVICE, INFORMATION. RESEARCH & TRAINING ON MEDIA ETHICS

*'Press freedom is a responsibility  
exercised by journalists  
on behalf of the public'*

## **PITY THE POOR CITIZEN COMPLAINANT**

*Formal statement of evidence to The Leveson Inquiry  
into the Culture, Practice & Ethics of the Press*

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#### **Documents previously submitted**

- i. *Freedom and Responsibility of the Press: Report of Special Parliamentary Hearings* (M Jempson, Crantock Communications, 1993)
- ii. *Stop the Rot*, (MediaWise submission to Culture, Media & Sport Select Committee hearings on privacy, 2003)
- iii. *Satisfaction Guaranteed? Press complaints systems under scrutiny* (R Cookson & M Jempson (eds.), PressWise, 2004)
- iv. *The RAM Report: Campaigning for fair and accurate coverage of refugees and asylum-seekers* (MediaWise, 2005)
- v. *Getting it Right for Now* (MediaWise submission to PCC review, 2010)
- vi. *Mapping Media Accountability - in Europe and Beyond* (Fengler et al (eds.), Herbert von Halem, 2011)

## **PITY THE POOR CITIZEN COMPLAINANT**

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Prepared by Mike Jempson  
for the MediaWise Trust  
Bristol, 29 Feb 2012

## **1. The MediaWise Trust: Origins, purpose & activities**

- 1.01 The MediaWise Trust [www.mediawise.org.uk](http://www.mediawise.org.uk) is a registered charity providing advice, information, research and training on issues related to journalism ethics, media policy and practice. Its primary purpose has been to provide assistance to those with complaints about inaccurate or intrusive press coverage in the UK.
- 1.02 The Trust also conducts research and training for media professionals and the voluntary sector, and has achieved an international reputation for its training programmes around journalism ethics and media coverage of problematic issues. We have worked in more than 40 countries with the BBC World Service Trust, the British Council, the European Commission, the International Federation of Journalists, the International Organisations for Migration, the Media Diversity Institute, the Organisation for Security & Co-operation in Europe, and numerous UN agencies notably UNHCR, UNICEF, and the World Health Organization.
- 1.03 The Trust was originally known as PressWise when it was set up in 1993 by 'victims of media abuse', following the Special Parliamentary Hearings<sup>1</sup> on Clive Soley's<sup>2</sup> Freedom and Responsibility of the Press Bill in 1992. The Bill had proposed the establishment of an Independent Press Authority to defend press freedom and adjudicate on complaints.
- 1.04 In March 1993, following the defeat of his Bill, Clive Soley invited the national newspapers and agencies to meet with some 70 individuals, families and organisations whose lives had been affected by inaccurate or intrusive press coverage in the Grand Committee Room at Westminster. The purpose of the meeting was to allow a frank exchange of views between the two groups. Not one member of the press attended.
- 1.05 Those present then discussed what would have made a difference to them at the time of their problems with the media. They identified three key issues:
- being able to talk to someone who understood their feelings of anxiety, fear and helplessness;
  - knowing someone who could instantly take action on their behalf (most knew nothing of the Press Council or the Press Complaints Commission, none could afford lawyers, and all were afraid of contacting the editors of the offending publications);
  - a wish that it would not happen to anyone else.
- 1.06 A steering group of 12 was set up to explore the possibilities of creating a self-help group to address these needs. Following consultations with sympathetic journalists, politicians and media lawyers a not-for-profit company, PressWise Ltd, was registered and began to offer free advice and

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<sup>1</sup> M. Jempson (ed.) *Freedom and Responsibility of the Press: Report of Special Parliamentary Hearings*, Crantock Communications/Pearson, 1993

<sup>2</sup> Now Baron Soley, Clive Soley was then a Labour MP.

support to people affected by inaccurate, intrusive or otherwise unethical behaviour by the print and broadcast media. It was managed by a team of five: David Joyce, Desiree Ntolo, Diane Simpson and Linda Townley (nee Joyce), all 'survivors' of media abuse', and journalist Mike Jempson who had worked on the Soley hearings.

- 1.07 In 1996 Jempson was appointed executive Director. He provides a public voice for the Trust and for complainants, assisting them in their dealings with editors and regulators, manages Trust projects, and devises and delivers its training programmes. Perhaps significantly his voluntary work for PressWise had adversely affected his earning capacity as a freelance. As an advocate for complainants, speaking out about the human consequences of unethical journalism, his earnings had dropped by two thirds over a two year period. His full-time journalistic career began in 1977 on local papers in London. He went on to work in public relations, and as a freelance for nationals, and for TV documentaries and current affairs programmes.
- 1.08 Lack of funds means the post of Director is now honorary, and Jempson is currently a part-time senior lecturer in Journalism at the University of the West of England. He has been Visiting Professor in Media Ethics at the University of Lincoln since 2006 and is Vice-Chair of the NUJ Ethics Council. He serves on the editorial board of *Ethical Space*, the international journal of the Institute of Communication Ethics, and was a founder member of the Campaign for Press & Broadcasting Freedom. He is currently the UK lead on a 14-nation research project into media accountability and transparency systems.<sup>3</sup>
- 1.09 It took PressWise six years to obtain charitable status, with the assistance of Lord Phillips and the Joseph Rowntree Charitable Trust, because the Charity Commission regarded the notion that members of the public should have rights in relation to the print and broadcast media as a political rather than educational objective. That appeared to change with the 1998 incorporation into UK law of the European Convention on Human Rights.
- 1.10 PressWise then became The PressWise Trust, subsequently changing its name to MediaWise in 2005. By this time the scope of its work had broadened out from being primarily an advice service to include training for journalists and voluntary sector organisations and 'action-research' around some of the patterns emerging among complaints and coverage, as well as lobbying for changes in codes of practice and regulatory procedures making submissions to parliamentary bodies, and the BBC, Ofcom and its predecessors, and the Press Complaints Commission.
- 1.11 The current Honorary President of the Trust is Aidan White (formerly General Secretary, International Federation of Journalists) who succeeded Sir Louis Blom Cooper (last Chair of the Press Council). The current Board of Trustees includes:<sup>4</sup>

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<sup>3</sup> See [www.mediaact.eu](http://www.mediaact.eu).

<sup>4</sup> A list of previous Trustees can be found at Appendix 1.

- David Baines (Newcastle University lecturer & journalist)
  - Bob Borzello (former journalist & publisher)
  - Mohammed Elsharif (Health Improvement Manager & former journalist)
  - Diane Kent, Chair (Charity administrator)
  - Forward Maisokwadzo (Charity worker & former journalist)
  - Dr Lee Salter (Senior lecturer, University of the West of England)
  - Alison Whyte (Journalist & trainer)
- 1.12 Almost from the outset the Trust has noted that those most likely to be at risk from problematic media coverage were women and those social groups most vulnerable to discrimination, including:
- asylum-seekers and refugees;
  - children and young people;
  - ethnic minority communities;
  - families of prisoners;
  - gypsies and travellers;
  - people with mental health issues;
  - relatives of suicides;
  - sexual minorities;
  - single mothers.
- 1.13 The Trust's work with some of these groups led to its engagement in a variety of initiatives in the UK and internationally, and the production of influential guidelines, variously endorsed by the IFJ and the NUJ:<sup>5</sup>
- IFJ guidelines on reporting children;
  - WHO Europe Code for health correspondents & communicators;
  - Reporting suicidal behaviour (produced in collaboration with 23 suicide prevention/mental health agencies and disseminated by the NUJ & IFJ);
  - Reporting asylum and refugee issues (produced with exiled journalists, the UNHCR, the NUJ and IFJ).
- 1.14 Our work in the field of media coverage of children's issues has included the production (for UNICEF) of *The Media and Children's Rights: A resource for journalists by journalists* (now in its 3<sup>rd</sup> edition and available in at least 12 languages) and *Reporting Children in Crisis: Guidance for media professionals* produced for Reuters' AlertNet. We also encouraged young people's organisations to make a submission to the Leveson Inquiry.
- 1.15 From the outset the Press/MediaWise has offered constructive criticism of the powers, procedures and practice of the PCC and other media regulators, and sought to represent the needs and perceptions of our clientele. For many years we have issued occasional bulletins commenting about aspects of journalistic ethics, policy and practice. However we have also sought to develop a civil working relationship with the PCC. Indeed the PCC has even referred complainants to us, although a promised link on its website has never materialised.

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<sup>5</sup> See Appendix 4.

- 1.16 It is worth recalling that the first PCC Director, Mark Bolland, who had promised the link, wrote that the PCC describes itself as *'an independent tribunal which deals with complaints and (it) must be as independent of groups such as PressWise as it is of the press and all other vested interests'*. (letter to PressWise, 29 February 1996). Nevertheless its own funding arrangements link it irrevocably to the industry it is supposed to regulate.
- 1.17 In an earlier correspondence (26 June 1995), Grahame Thomson, then Secretary and Treasurer of PressBof, advised the Hon. Bernard Jenkin MP; *'the Directors (of PressBof) consider that it would not be competent for them in terms of the Memorandum and Articles of Association to make a contribution to PressWise. It is probably worth saying that the industry believes that it has established in the independent Press Complaints Commission a user friendly body.'*
- 1.18 Two days later (28 June 1995) in a letter to PressWise Director David Joyce, the Prime Minister's Press Secretary remarked: *'(Ministers and officials at the Department of National Heritage) have explained that it would not be appropriate for the Government to give funds to a body which appears to have some of the same functions as the Press Complaints Commission'*.
- 1.19 Throughout its existence the Trust has been funded through charitable donations, project funding and earnings from training programme.<sup>6</sup>

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<sup>6</sup> For a list of funders see Appendix 1.

## **2. Working with Complainants**

- 2.01 MediaWise continues to provide a free, confidential and professional advice service for those who believe they have grounds for complaints against newspapers, magazines, online publications, radio and television broadcasts.
- 2.02 As a genuinely independent advocacy service, the Trust sees its role as complementary to that of the regulators. We provide a service primarily to complainants who are unpractised in the ways of the print and broadcast media. Our function is to assist them to appreciate how a story may have come to be published, to identify the errors in the published copy, to analyse the way in which information has been collected, and to advise them on the best procedures to adopt in order to gain a reasonable hearing from the regulators.
- 2.03 MediaWise does not seek out complainants. This is a point of principle, but it is also a protective measure against gratuitous accusations by some editors that we deliberately set out to encourage complaints. It has always been essential to the integrity of our work that people come to us voluntarily and authorise any action we take on their behalf. Nowadays most complainants are referred to us by a third party – Citizens' Advice Bureaux, voluntary sector organisations with whom we have worked, and occasionally from solicitors. There tends to be an increase when there has been publicity about our work in the media.
- 2.04 It is difficult to say how many people we have dealt with over the last 18 years, but it runs into the thousands. At one time in the early years enquiries were coming in at an average of one a day. Nowadays the rate has dropped to perhaps an average of one enquiry a week. In part we would ascribe this to improvements in both public awareness of the Press Complaints Commission and its accessibility. Its website is a vastly improved portal, now containing much of the advice which was once our stock in trade.
- 2.05 MediaWise does not automatically assume that any person approaching it for help has a legitimate complaint. Those handling complaints are experienced journalists. We listen carefully and kindly but apply quite stringent, even forensic, analysis to what we are told. Potential complainants are expected to provide evidence to support their claims, and where possible these are checked.
- 2.06 Where appropriate we explain both the law and journalistic conventions as they relate to the issues raised. In probably 50% of cases this helps people to appreciate that they do not have a valid complaint.<sup>7</sup>
- 2.07 Often people are simply upset by what they have read in a newspaper; they may feel it is unfair, but if there are no glaring inaccuracies or evidence of

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<sup>7</sup> A detailed account of the process appears in Appendix 5.

breaches of the Editors' Code there is little point in expending energy, time and sometimes money pursuing a complaint.

- 2.08 If there appear to be grounds for a complaint, we explain the procedures for making complaints to the PCC, Ofcom or the BBC. We advise people on how to manage their complaint, and may monitor its progress through the PCC, for example. This may include helping them to challenge 'misinterpretations' of their complaints, once more common than now, or simply how best to respond to the often brusque or bullish replies received from editors.
- 2.09 Occasionally we will agree to take up a complaint on someone's behalf – often because they lack the confidence or resources to do so themselves, and sometimes because there are important issues at stake.
- 2.10 Typically people feel very frightened and alone when caught up in a story over which they have no control, especially if it contains inaccuracies. They are scared to approach the publication, for example, because newspapers and magazines are seen as powerful and rather mysterious bodies and because they imagine, with some reason, that the editor and reporter – whom they see as the perpetrators of an assault on them – will be hostile. Those who do make a direct approach may receive a positive response but it is more common that the initial response will be negative. Media lawyers advise their clients not to admit to errors in the first instance, for fear presumably that it may lay the company open to litigation, but also to protect the integrity and credibility of their publication.
- 2.11 In one of our cases an editor of a local paper persisted in misspelling the complainant's name during a lengthy correspondence, despite the fact that his original complaint had been typed and concerned, among other things, the incorrect spelling of the name of his murdered son. The PCC followed the editor's line, again misspelling the complainant's name. Our intervention persuaded both to put the matter right – and indeed the paper offered compensation for the time and trouble to which the bereaved father had been put. It was a particular example of an attitude many complainants have experienced, where they are treated as a supplicant rather than an equal party. It is an attitude that has changed within the PCC over the years, though less so among editors.
- 2.12 In our experience, certainly in its early years, the PCC tended to give the benefit of the doubt to the press. The first line of an editor's defence is often that the complainant is the villain of the piece and should not be trusted, even when it is the veracity of the offending story that is in question. Such attitudes, and the apparent immunity of the industry, causes additional upset. It makes people doubt themselves, and many are fearful of even attempting to complain. Those who do may spend many days, weeks or months at considerable cost trying to put the record straight. They are expected by the PCC to meet tight deadlines and produce watertight cases if they want to be taken seriously. Editors and their lawyers are often afforded greater latitude by the PCC.



- 2.13 Many people traduced by the media do not want to become embroiled in the lengthy and sometimes problematic process of making a complaint. The PCC requires them to supply hard evidence to support their contradiction of a published story. It is hard enough under normal circumstances to disprove a negative, and when that negative has been published in a national daily, it becomes especially difficult. Even potential allies go to ground, fearful of becoming infected by the calumny.
- 2.14 Any evidence supplied to the PCC is routinely forwarded to the newspaper concerned for comment, with no guarantees to prevent it being used at a later date. Comments made to the PCC by complainants have even been used in follow-up stories. Sometimes complainants have to provide information which journalists themselves have not uncovered, or to which they have no right. If you have been described as being HIV positive or suffering from AIDS the only effective challenge is to supply a recent medical certificate to disprove the allegation.
- 2.15 In one case a woman had to apply to the police for a statement that she had no criminal record in order to challenge a story which had claimed that she did. One couple who were in the process of putting right inaccurate information published by one newspaper were frightened off when a rival paper repeated the allegations as part of its own follow up. Their health and their business had suffered, and they had fled their home on several occasions to avoid the press. But it was for the sake of their two young children that they decided to abandon their efforts to put the record straight. In consequence, false information about them remains on the record and could resurface at any time.
- 2.16 Other complainants had also been asked to reveal medical or even police records to the PCC with no guarantee that they would not be seen by the newspapers which had made inaccurate or intrusive claims. Some complainants have worried that the PCC has being used as a backdoor means of confirming what a newspaper only suspected, or of legitimising information which had been illicitly obtained. On several occasions MediaWise has had to seek assurances from the PCC that sensitive documentary evidence would not be passed on the newspaper.
- 2.17 In one case, the PCC refused to consider a complaint unless documents germane to the complaint were supplied to it. Part of the complainant's case was that the original newspaper article had been speculative and that reporters had not seen the documents upon which they had purportedly based the story. He believed the story, which also concerned prominent politicians of day, was politically motivated and may have originated from within the political class. Official documents he had obtained by perfectly legitimate means tended to support this view. Understandably he was reluctant to hand them over if they would then be supplied to what he saw as his enemy. After extensive negotiations MediaWise obtained agreement on the terms for the supply of the documents, at which point the PCC decided that they would not proceed. No reasons for this perverse decision were ever made clear even when we appealed their decision. Months of effort were

wasted and the injustice of the original article, which included unsubstantiated allegations of criminal activity, remained unchallenged.

- 2.18 The PCC has always seemed strangely reluctant to investigate the methods used to obtain stories, perhaps relying too heavily upon assurances from editors that their staff would never misbehave in such ways. Often MediaWise has had calls from people besieged in their homes by 'media scrums'. We always advise them to try and keep their cool, since displays of fear (driving away at speed) or anger (threatening or actually striking out at photographers or reporters) provide the new angle the pack are waiting to seize upon.
- 2.19 One teacher, who had in earlier days worked for an escort agency, described how a reporter had marched around her house calling out "*We know you are in there. We know you were a prostitute. Come out and talk.*" This was, of course, denied by the newspaper.
- 2.20 A single parent who had moved home for her own protection after leaving the police force following what the *Daily Mail* had described at the time as '*a sustained campaign of harassment (by police colleagues) which undermined not only her professional confidence but also her health*', was horrified to discover that two people had been peering into her house and asking questions of her neighbours while she was out. The following week, as part of its campaign against 'the compensation culture', the *Daily Mail* identified where she was living and described her home as '*tastefully decorated with old-style farm furniture and expensive ornaments*'.
- 2.21 Three years earlier, in 1998, the paper had championed her: '*She had every justification for taking her case to an industrial tribunal ... which she had deservedly won,*' but it had also followed other papers in quoting a sum concocted by journalists after the hearing. Constrained from revealing details of her award by the terms of her settlement, the woman felt helpless to challenge the frequent repetition of this exaggerated figure. The *Mail* even used it in conjunction with sexist jibes she had endured. When she complained the PCC demanded evidence that the incident had affected her health. The *Mail* claimed '*The public interest is plain*' to justify its repeated references to her, but did eventually agreed to drop the disputed figure.
- 2.22 Another woman called MediaWise from her bedroom where she had taken refuge after being told by a neighbour that two men were skulking around her isolated house, and peering through her downstairs windows. She had earlier refused to talk to a reporter and photographer from the *Daily Mail*. MediaWise rang the paper's news desk to insist that the men be called off. Despite denials of their presence the men moved off shortly afterwards. The woman had been trying to expose sharp practices by a mortgage company that was exploiting people with poor credit records. She had become terrified when she realised that someone was accessing her telephone records illicitly. This was long before mobile phones had become ubiquitous. She had been hounded by a man claiming to be a journalist but whom she suspected of being a private investigator. Indeed it turned out a major public relations

firm employed by the mortgage company had been compiling a dossier about her and supplying the information to the press to undermine her credibility. This was long before we became familiar with the notion of 'sub-prime' mortgages, and the company even financed a supplement in the *UK Press Gazette* in an attempt to head off criticism of its activities.

- 2.23 Years later the revelations of the Information Commissioner in *What Price Privacy?* and *What Price Privacy Now?* (2006) confirmed what so many MediaWise clients had always suspected: that newspapers routinely hired investigators to collect data which staff could not readily access. It is understandable that those on the receiving end of such intrusive inquiries become frightened and paranoid. The realisation that supposedly private bank, telephone and health records have been released to a third party is at least as unsettling as a burglary and has been described as a form of violation.
- 2.24 National newspapers and magazines also rely upon other sources for personal information. As publications reduce the number of staff journalists on their payroll, news agencies and freelances fill the information-gathering gap. Their earning capacity depends upon adding value to stories which may arise from court cases or local news outlets, and to provide local background for national stories. Despite the claims made to the inquiry that the economic circumstances have not impinged upon standards, working journalists know that there has been a significant structural shift over the last few decades. And reliance upon 'non-staff' sources provides newspapers with a useful deniability route should the rules be broken in the pursuit of stories.
- 2.25 In January 2004 we took up the case of Sinisa Nadazdin, a charity worker in Montenegro who had acted as a local contact or 'fixer' for a freelance working on a story about child trafficking with the *Sunday Mirror*. Unable to get the story he wanted, the freelance then set about entrapping Mr Nadazdin, apparently with the consent of the paper. Under the headline FOR SALE AGED 3, the paper accused him of being a trafficker, and published pictures of Roma children (whose mother is quoted in the article saying she would never sell her children) with mock price tags around their necks set against a refugee camp where they do not live. The story caused an international incident. Nadazdin and two others locals who had collaborated on the story were arrested and a warrant was issued for the arrest of freelance. It quickly became clear to the Montenegrin authorities that the story was a fabrication and the men were released only to be later rearrested and charged with defaming the state. Faced with an action for defamation the Mirror Group immediately acknowledged the libel and paid substantial damages to Nadazdin.
- 2.26 This was not the first time we had heard about freelances abusing the trust of fixers and foreigners in pursuit of a story to sell. Furthermore, the case was an example of the viral impact of online transmission. There appears to be no effective remedy apart from multiple legal challenges, to ridding the web of inaccurate information. In trying to expunge the damaging story from the internet, where it had reappeared in many different forms, we found

some 130 reproductions including its use by right wing and racist groups in the US seeking to disparage the UN and Roma, both mentioned in the article. Indeed some of these still extant.<sup>8</sup>

- 2.27 Following the pattern set by the paparazzi, the growth of 'cash for stories', 'citizen journalism', and reliance upon social networking sites as sources for stories will inevitably impact upon newsgathering techniques and media standards – with the outcome considered more important than the process.
- 2.28 Three months after the Scottish *Sunday Express* published its disgraceful 'Anniversary Shame of Dunblane Survivors' (8 March 2009), the PCC announced that the paper had made a '*serious error of judgement*', since the young people whose Facebook pages had been trawled for evidence of their life styles "*were not public figures in any meaningful sense, and ... had done nothing to warrant media scrutiny*". By then the paper had already removed the offending article from its website and published an apology, in response to an online petition which attracted 11,186 signatures. It is one of the most powerful examples of the way in which members of the public may now intervene, using the internet to challenge abuse of power by the press.
- 2.29 Yet for all this most complainants we have dealt with over the years continue to support the notion of press freedom. They want journalists to hold the powerful to account on their behalf, they support investigative journalism. They want to be able to trust what journalists tell them, but increasingly they do not. We have long argued for a 'compact of trust' between journalists and the public to define their relationship. The revelations that have emerged at this Inquiry emphasise the need and the urgency of such a compact if journalism is to recover from the current hiatus.

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<sup>8</sup> See <http://www.vnnforum.com/archive/index.php/t-2073.html> (last viewed 28/2/2012)

### **3. Third party complaints**

- 3.01 MediaWise has long argued that the PCC should be more flexible about third party complaints. It was at best disingenuous of former PCC Chair Sir Christopher Meyer, to claim in his evidence to this Inquiry that third party complaints are accepted by the PCC. For the most part they are not, unless a sufficient head of steam is built up behind them. The PCC claims to operate in the public interest yet when members of the public are fed information that turns out to be inaccurate there is no immediate and automatic obligation to set the record straight unless an individual directly concerned manages to make a complaint.
- 3.02 Some inaccuracies can have severe consequences - notably when newspapers purvey stereotypes or pass on unchecked and unreliable stories about particular social groups (asylum-seekers, gypsies, lesbian, gay, bisexual or transgender folk). Generally speaking complaints from social groups are dismissed as special pleading by editors and ineligible by the PCC.
- 3.03 In the first six years of the PCC's existence it received around 600 complaints alleging racism in newspapers. Not one was upheld and the PCC regarded most of them as ineligible under its rules.
- 3.04 After headlines like 'Achtung Surrender' (*Daily Mirror*) and 'Let's Blitz Fritz' (*The Sun*), the then PCC Chair, Lord Wakeham, was moved to warn editors about the dangers of inflammatory, xenophobic copy.
- 3.05 However, it took a concerted efforts by civil society organisations including MediaWise to persuade the PCC to issue guidance to editors in 2003 on reporting about asylum-seekers and refugees, as newspapers had been routinely using the wrong terms (conflating 'illegal immigrants' and 'asylum seekers') and even meaningless terms (like 'illegal' asylum-seeker'). Such inaccurate and pejorative coverage corroded public debate and can have severe consequences for those on the receiving end.<sup>9</sup>
- 3.06 In April 2005 following a month of anti-gypsy stores in the *Daily Mail*, *Daily Express* and *Daily Star* following *The Sun*'s lead with its 'Stamp on the Camps' campaign, we received many calls from gypsies and travellers who had witnessed a sudden upsurge in abuse and threats, including to children, with tradesmen refusing to provide services and an increase in police surveillance. They had no idea what had caused it, since few read daily papers, but they were acutely conscious that something hostile was happening 'out there' which was having a direct impact upon their lives.
- 3.07 We wrote to the tabloid editors about this. We told them about one woman who had lived with her parents on sites for 48 years. She had called asking why, all of a sudden:
- her children had started getting abuse at the local school,

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<sup>9</sup> See: [www.pcc.org.uk/news/index.html?article=OTE](http://www.pcc.org.uk/news/index.html?article=OTE)

- tradesmen had started demanding that travellers wanting an electrician or plumber had to book them through site wardens and pay in advance,
  - when police visit the site they come in riot gear.
- 3.08 We also told them about a man who had rung to say he had withdrawn his children from school because they were suffering abuse. And we copied them in on an impassioned plea for understanding compiled by women on another site. They complained, among other things, that gypsies and travellers are rarely asked for their side of the story when controversy arises, but did not sign the letter because they feared reprisals. We supplied the newsrooms with contact details for 28 gypsy and traveller organisations around the country in the hope that they might to at least allow them to speak for themselves. To their credit both *The Sun* and the *Daily Mail* thanked us for the information.
- 3.09 It was the perseverance of one 'third party' that really made an impact on the casual racism that once blighted the British press. Former journalist and publisher Bob Borzello (now a MediaWise Trustee) made it his business to challenge the old Press Council on the topic. From 1984 until 1990 he made some 130 complaints. 75% of those adjudicated upon were upheld. Some were never corrected by the papers. At the time the majority of editors were hostile to his efforts, indeed in an extraordinary move the *Daily Mail* published his home address in a critical leader column, and Wendy Henry, then editor of *The People*, shredded some of his letters and sent them back to him.
- 3.10 The *Daily Mail* described one Press Council ruling in his favour as '*illiberal, oppressive and potentially anti-democratic*' (8 April 1990), yet Press Council Director Ken Morgan said: "*Mr. Borzello has, at the cost of infuriating editors, improved matters. He's an original who ought to be cherished.*"
- 3.11 Introducing a PressWise conference about ethnic minorities and the media in 1997, Borzello wrote: "*Incredibly, blanket racist comments - called 'collective' racism by the PCC - are not even recognised by the Code. So while it is a Code violation to call a named Italian a 'wop' or an 'Eyetie' it is not a violation to call all Italians 'wops' or to add for good measure that 'Eyeties' are lazy or lecherous or smelly or cheats or whatever. If today Adolph Hitler was writing for a British paper he would not be in violation of the Code so long as he called all Jews 'Yids' and aimed his racist comments at all Jews.*"<sup>10</sup>
- 3.12 In effect that remains true to this day. Indeed one inference that could be taken from the PCC's response to some complaints is that the more outrageous the racist slur the less likely it is to be condemned. When Borzello complained about columnist Vernon Coleman describing the Maltese as "*petty crooks, racists and barbarians*" and "*Nazi bastards*" in *The People* and the *Glasgow Evening Times*, the PCC acknowledged that "*the writer's opinions were indeed presented not as conjecture but as fact.*" However it

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<sup>10</sup>Introduction to *Telling it like it is: Ethnic Minorities and the Media Forum Report* (PressWise, 1997)

considered that "reasonable people were unlikely to be misled into believing that the articles were intended to be accurate in view of the hyperbolic language that had been deployed."

- 3.13 Borzello's point is simple, and is shared by MediaWise: "*If it is unprofessional, unethical and libellous to print lies about individuals, why should it be acceptable to print lies about whole groups of people? It is also ridiculous that the public is forbidden to complain about racist lies and language simply because the lies and language are not directed at them personally.*"
- 3.14 Editors show scant regard for the interventions of 'third parties' like Borzello, who was dismissed as a "*vexatious litigant*" by Brian Hitchen when managing editor of *The Daily Star*. As recently as 5 February 2012 former *Guardian* editor Peter Preston, commenting on the Leveson Inquiry in his *Observer* column recalled '*Bob Borzello, a perpetually outraged ordinary reader, made a hobby of (third party complaints), swamping the commission with hundreds of cases.*'
- 3.15 Yet when members of ethnic, religious or sexual minorities, or even youth groups, protest about the coverage of their communities their complaints are regarded as 'special pleading' or 'political correctness'. Such attitudes give succour to no-one but the bigots.
- 3.16 Serious thought has to be given to allowing third party complaints because everyone in society can be affected by inaccurate or otherwise distorted representation. One telling example was the blanket front page coverage given to one particular story on Monday 20 October 1997:
- 3,000 GIPSIES HEAD FOR ENGLAND: We have best handouts (*The Sun*)
  - THE DOVER DELUGE: Pleas for action as port is flooded by gipsy asylum seekers (*Daily Mail*)
  - CRISIS TALKS ON GIPSIES (*Daily Mirror*)
  - Gipsy scam grows: Thousands on the way seeking benefits cash (*Daily Express*)
  - THE DOVER DELUGE: Pleas for action as port is flooded by gipsy asylum seekers (*Daily Mail*)
  - Gypsies invade Dover, hoping for a handout (*The Independent*)
  - Tide of Gypsy asylum ebbs (*The Guardian*)
  - Resentment as 'invasion' continues (*Daily Telegraph*)
  - Dover overwhelmed by Gypsy asylum-seekers (*The Times*)
- 3.17 In fact fewer than 300 Slovakian Roma came through Dover that weekend most of whom already had relatives in Britain, so it is difficult to imagine how or why every newspaper led with the story, unless supplied from someone within the immigration service an agenda. Within days the BNP were on the streets, foreigners in Dover were being attacked, the police were raiding houses where refugees and asylum-seekers lived. Within months the Home Secretary had introduced visa restrictions on travelers from Slovakia. When I visited Slovakia I learned that the restrictions were being blamed on the

Roma, worsening attitudes towards them and increasing the likelihood that they would want to seek sanctuary elsewhere.

- 3.18 An important function of a 'reformed PCC' or whatever regulatory body replaces it should be to investigate the issues raised by what might be regarded as 'class action' rather than 'third party' complaints. When it is clear that particular problems have arisen, the regulator should be in a position, as an impartial observer, to flag up the problem and to commission appropriate research into perceived failings in the quality of reporting. As our work on reporting asylum issues, suicide, and children has shown, journalists value assistance in dealing with unfamiliar territory. Although the NUJ itself produces occasional reminders to members about the reporting of racism, sexuality, ageism, and terrorism, and the Society of Editors has commissioned guidance on reporting on diversity human rights and poverty, the public and advocacy groups may feel inclined to rely upon an agency that is not directly involved in the production of copy.
- 3.19 The issue at stake here is central both to the role of the press in an open democracy and the issues of freedom of expression. Newspaper companies exist primarily to make profits for their shareholders, but they also provide a service upon which people rely for information about the world in which they live. Any member of the public should be entitled to complain if they believe they have been misinformed by a newspaper. Freedom of expression is not the exclusive right of journalists. Some people complain because they do not feel that a newspaper has offered a sufficiently wide variety of news and information. It is a particular problem with local papers where there is little competition and an editor may choose to ignore events and local political stories which do not suit the paper's line. More to the point, an inaccurate story can have a dramatic impact upon people's attitude towards whole social groups and issues such as gypsies and travellers, young people, drug misuse and homelessness.
- 3.20 It does harm to democracy when those privileged to represent society take liberties with public emotions and attitudes by dressing up fiction as fact. Media processes must be open to scrutiny, especially now that the Information Commissioner's revelations and the 'Hackgate' scandal has heightened public awareness of the extent to which some journalists will go to get a story. We should all have the right to complain when newspapers print lies or when there are other flagrant breaches of the Code
- 3.21 Of course there can be frivolous or even vexatious complaints - and there are civilised ways of dealing with them. If all newspapers once again had an internal ombudsman or Readers' Editor, it should be easy enough to detect and deflect what is known as 'the green ink brigade'. However this role should not be a buffer against criticism; but part of the newspaper's public service role. The dismissive attitudes of some editors can quickly turn a legitimate and civic-minded complainant into someone who appears to be an obsessive. Denied the statutory right of reply that exists in so many other countries, UK citizens can only express their dissatisfaction by writing to an offending newspaper or the PCC.



- 3.22 Either the PCC should be more precise about which third party complaints it is prepared to entertain - bearing in mind that its Constitution, written by the newspaper industry, contains clauses giving it the absolute right not to proceed with any complaint for any reason - or it must be prepared to initiate complaints on its own volition.
- 3.23 One of the benefits of the internet is the arrival of fact-checking and testing sites like Full Fact and innovative approaches to correcting errors like the 'crowd-sourced media accountability' site [www.corrigo.org](http://www.corrigo.org). They are able to challenge the mainstream media when suspect claims are made, and to act as 'third party' watchdogs on behalf of wider society. Some newspapers now respond to their challenges, cutting out the wasted effort of seeking to engage the PCC in the debates about accuracy and whether or not a complainant has the requisite status.



- 3.24 That facility did not exist when this was front page 'splash' appeared in *The Sun* (4/7/2003). And besides who would be eligible to complain if the story was false, as it turned out to be? At the time *The Sun* had daily sales of around 3 million, an estimated readership of some 10 million citizens.
- 3.25 The story continued inside under the headline ASYLUM GANG HAD 2 SWANS FOR ROASTING (see below).
- 3.26 As MediaWise was working with exiled journalists from Eastern Europe at the time we encouraged them to investigate the provenance of the story - which they did. They then made a complaint to the PCC.
- 3.27 The response of *The Sun's* Ombudsman William Newman was: "*We stand by our story*" (letter, 18/7/2003). Yet our enquiries had quickly revealed that police had NOT '*swooped on a group of Eastern Europeans*' in Beckton or anywhere else and no arrests had been made or charges laid.
- 3.28 Chief Supt Tristram Hicks later confirmed this in writing saying that the so-called official Metropolitan Police Report was 'an internal intelligence note' sent to police stations by the Wildlife Unit earlier in the year. His letter concluded: '*We have no information at all that supports this contention (about asylum-seekers) and indeed when we spoke to ... Mike Sullivan he agreed that this was a mistake on The Sun's part.*'
- 3.29 It had taken a Serbian reporter a matter of days to ascertain the facts, but it took the PCC and *The Sun* almost six months to 'set the record straight.'



Graceful... black swan

### Love birds die crying

SWANS mate for life and mourn their partner when it dies, like a human.

Expert Dot Beeson said their deaths are "a staggering experience" to witness.

She said: "They have tears in their eyes. 'Just as they die they lift their heads skywards and stretch out their wings'."

Britain has 30,000 of the birds, the most common species being the mute swan.

Despite their name, they communicate with grunts, barks and hisses.

Swans typically weigh 20lb and are white with black legs. There are some different varieties.

The graceful birds can fly at 50mph. They have an 8ft wingspan and can break a man's arm with one flap. They can live to 35 but rarely survive past ten.

# ASYLUM GANG HAD 2 SWANS FOR ROASTING



Banquets... Henry VIII

### A feast fit for a king

ROASTED swan was a favourite dish of King Henry VIII.

The birds were kept specially for eating then served at banquets decorated with a gold crown.

Burning cotton was put in the beak so it looked like the swan was breathing fire.

Killing swans is now illegal — but had you lived during Henry VIII's reign in the 16th century this is the sort of recipe you could have tried:

Pluck swan like a chicken. Do not pluck head.

Scald in hot water then put on a spit, skewered in four places.

Roast whole with beak and feet.

Serve with a yellow pepper sauce.

Another speciality was swan neck stuffed with pork and wrapped in dough.

#### POLICE swooped on a group of East Europeans — and caught them red-handed about to cook a pair of Royal swans.

The asylum seekers were barbecuing a duck in a park in Beckton, East London.

But two dead swans were also found — concealed in bags and ready to be roasted.

The discovery last weekend confirmed fears that immigrants are regularly scoffing the Queen's birds.

A Metropolitan Police report explained: "European gangs attract them with bait before luring them into traps for food."

The scandal comes after complaints by anglers that hungry asylum seekers are stripping our rivers of fish.

Steve Knight, of Surrey's Swan Sanctuary, said: "Poaching of swans is becoming a serious problem. It is

#### EXCLUSIVE by MIKE SULLIVAN

happening mainly around London but we have also had reports from Wiltshire, Hertfordshire and Essex.

"Sadly it seems that some people coming into the country have been ignoring our custom of leaving these beautiful birds alone."

"There has been a noticeable drop in swan numbers."

In Enfield, North London, police and a wildlife liaison officer are patrolling the River Lee after swans disappeared.

#### Tragic

A police spokeswoman said: "The local community say the swan population has decreased considerably."

A spokesman for the Royal Society for the Protection of Birds said: "There has been a drop

in the number of swans in the River Thames and there is a suggestion they are being stolen. It seems there may be a connection with people from Eastern Europe."

"We no longer eat swans in this country. But people from various other parts of the world still do."

"Swans are totally protected and have been for hundreds of years."

Andy Fisher, head of the Met's wildlife investigation unit, said: "We have reports of swans taken from various parts of London and eaten. It is a criminal offence. They are the property of the Queen."

Swans belong to the Crown under an ancient charter and are also protected by the Wildlife and Countryside Act.

A police source said: "It's tragic that people from abroad don't respect our traditions."

The Sun Says —  
Page Eight

- 3.30 Eventually *The Sun* offered to print the following weasel words:  
'A report in *The Sun* on the 4th of July about the disappearance of swans in southern England stated that asylum-seekers were responsible for poaching them. While numerous members of the public alleged that swans were being killed and eaten by people they believed to be Eastern European, nobody has been arrested in relation to these offences and we accept that it is therefore not possible to conclude yet whether or not the suspects were indeed asylum seekers.'
- 3.31 The complainants felt that this begged more questions than it answered and suggested the following wording to *The Sun*:  
**SWAN BAKE: A CORRECTION AND APOLOGY**  
'A report in *The Sun* of 4 July, headlined on the front page SWAN BAKE, stated that gangs of Eastern European asylum-seekers were responsible for the disappearance of swans from southern England. The story was based on unsubstantiated allegation made by unnamed members of the public who claimed to believe that swans were being killed and eaten by Eastern Europeans. The police have confirmed that nobody has been arrested for such offence and they have no evidence that asylum-seekers or Eastern Europeans are responsible for reported reductions in the swan population. *The Sun* accepts that it is not possible to conclude whether the offences described actually occurred. We would like to apologise for any false impressions that may have been given.
- 3.32 *The Sun* refused to publish this and the PCC's response to the complainants was: 'In this instance the Commission noted that the newspaper was unable to produce any evidence for the story which, to its readers, would appear to be a factual account. Although the newspaper should have ensured that the article was presented as conjecture in the first instance the

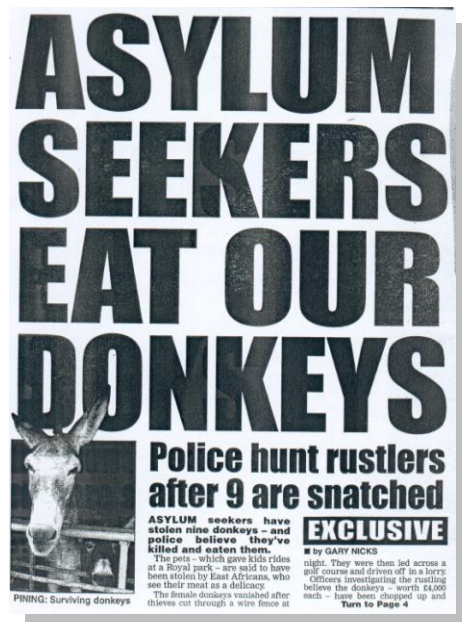
*Commission noted that the publication had offered to print a clarification ... to ensure that readers were aware that the statement was based on inconclusive material, the Commission noted that your proposed draft clarification was more comprehensive than that suggested by the newspaper, but considered that the original proposal constituted sufficient remedial action ... [and] concluded that no further action was required on the part of the newspaper.'* (letter, 17 Nov 2003)

3.34 Without further discussion *The Sun* went ahead and published its 'clarification' on Page 41 of a Saturday edition on 6 December 2003. It was not until January 2011 that the Editors' Code Committee formally required the prominence of corrections to be agreed in advance with the PCC.

3.35 We had to take out an advert in *The House* magazine to make sure MPs understood the truth, since the original story had entered the popular imagination, and has been quoted in expressions of antipathy towards asylum seekers since.

3.36 Someone with a seasoned eye who knows how journalism operates might notice how few of such stories stand up to scrutiny. To the casual reader the clues may not be easy to discern but the messages are plain, and that is where the danger lies. Once an urban myth is born it is hard to dislodge it from the popular imagination, let alone the radar of politicians anxious for votes.

3.37 Another classic example appeared soon afterwards. Not to be outdone the *Daily Star* (31/8/2003) went with: ASYLUM SEEKERS EAT OUR DONKEYS.



3.38 It is instructive to read the words of such stories and consider their structure. This story again begins with a bald statement of apparent fact: '*Asylum-seekers have stolen nine donkeys - and police believe they've killed and eaten them.*' The first clue is in the '*believe*'. It goes on '*The pets ... are said to have been stolen by East Africans, who see their meat as a delicacy.*' Notice - readers are not even told who '*said*' it.

3.39 Next readers learn: '*Officers investigating the rustling believe the donkeys - worth £4,000 each - have been chopped up and sold. The animals were a favourite at Greenwich Royal Park... The meat is also popular in some Eastern European countries, such as Slovakia and Romania.*' So who are the rustlers, East Africans or Eastern Europeans?

- 3.40 Worse is to come: *'Just last month, the Food Standards Agency warned that donkey meat was found in salami, pastrami and chorizo being sold in British shops. The donkey rustling follows reports of swans being stolen from ponds and lakes in London by immigrants to eat.'*
- 3.41 Then along comes the classic unnamed source: *'A police insider told the Daily Star: "We are totally baffled ... One of our main lines of inquiry is that they may have been taken by immigrants who like eating donkey meat as a delicacy. It's no secret that we have a large African immigrant community here." This is followed by another assertion: 'Donkey meat is a speciality in some East African countries, including Somalia. And two areas near Greenwich - have large numbers of Somalian asylum-seekers.'*
- 3.42 The story goes on to quote their owners and other locals who appear to be responding to the suggestion that foreigners have stolen the animals to eat them. We are also told that owners are *'checking reports that Albanian immigrants have been spotted in the past few days giving donkey rides in Kent seaside towns.'* The only named police officer quoted in the story is Inspector Jim Moore, who merely says: *"It is very sad for local children, with whom the donkeys are very popular. Whoever carried out this theft must be quite heartless."*
- 3.43 We learn that the animals have cute names, that two are pregnant and that three foals are now pining for their mothers. The story ends with a quote from a 76-year-old neighbour who appears to have been assured that the suppositions on which the story is based are true. She says: *"It makes my blood boil when I hear that asylum seekers have stolen them to eat."*
- 3.44 It is a quite pernicious story. The only hard fact appears to be that nine donkeys have disappeared from Greenwich Park. Blame is placed squarely on the shoulders of unnamed foreigners, with no supporting evidence, so no-one is eligible to complain to the PCC. Eventually a third party complaint was accepted, when a clergyman pointed out that the eating of donkey meat is *'haram'* so it was incorrect to suggest that people from Muslim countries would have stolen them to eat.
- 3.45 Such stories poison public discourse, and the urban myths persist and mutate as similar versions are spawned. Here is a selection of headlines from national newspapers alone which have a familiar ring:
- NOW THEY'RE AFTER OUR FISH, *The Sun* (5/7/2003)
  - THE ONES THAT GOT AWAY, *The Sun* (8/7/2006)
  - FURY AS MIGRANT ANGLERS 'EAT THE FISH', *Daily Telegraph* (5/8/06)
  - OFFICIALS PATROL RIVERS TO STOP EASTERN EUROPEANS EATING CARP, *Daily Mail* (3/11/2006)
  - SORRY, POACHED SWAN'S OFF: CALLS FOR CLAMP DOWN ON RIVER BANDITS FROM EASTERN EUROPE, *Daily Mail* (7/8/2007)
  - POLISH FISH POACHERS ATTACKED BY MP *Daily Express* (11/8/2007)
  - SWAN BAKE: CARCASSES AND PILES OF FEATHERS FOUND NEXT TO COOKING POTS AT MIGRANTS' CAMP, *Daily Mail* (28/2/2008)
  - SWANS KILLED AND FISH VANISH AS 'MIGRANTS PILLAGE RIVER FOR FOOD' *Daily Mail* (24/3/2010)



3.46 An equally inaccurate and, in this case, out of date story appeared in the *Daily Express*, and only the *Daily Express*, on Monday 16 August 2004.



3.47 Some of our exiled journalists contacts took a particular interest, because the story accused 'asylum seekers' of being part of an Al-Qaeda assassination plot. The apprehended men were a most unlikely duo for such a task as they were from Lithuania, a Catholic country which had just joined the European Union. Simply by speaking to the police our colleagues were able to ascertain, within hours, that the *Express* had concocted their sensational tale from incomplete information, beside which the arrests had taken place the previous year and two miles, not half a mile, from Blair's constituency home.

3.48 The police were understandably annoyed, and issued a statement denouncing the paper. *'(T)his story is rubbish and the Daily Express were told this in unequivocal language when they first asked us about it on Friday.'* But when we

went public with our account, lawyers for the national newspaper that had run a sensational headline above a shocking piece of nonsense on its front page accused us of 'seeking publicity'.

3.49 Even so public a drubbing does not seem to have inhibited the publication of misleading stories in the *Express* titles. And if their staff or concerned citizens are not eligible to complain it is difficult to know whom the PCC would find acceptable.



3.50 Would any Muslim be eligible to complain about this *Daily Express* story on 15 Oct 2009? It claimed: *'The fanatical group Islam4UK has announced plans to hold a potentially incendiary rally in London ... calling for a complete upheaval of the British legal system, ... '... Muslims from all over Britain to converge on the capital ... to demand the full implementation of sharia law ... they deride British institutions... Plans ... have been delivered to. .. Police and could see up to 5,000 extremists marching.'*

- 3.51 The headline implies a generality of Muslims. In fact the event had been organised by a small group called Islam4UK. What is more, had 5,000 people turned up (they did not) that would still be only 0.3% of the UK's 1.6 million Muslims. Only right at the end of the story do we learn: *'A spokesman for the Islamic Society of Britain said: "99.999 per cent of Muslims despise these people. This only serves to fuel racial tensions".'*
- 3.52 Most Muslims were astounded by the implications of the allegations, and the Muslim Council of Britain felt obliged to announce: *'The overwhelming majority of British Muslims want nothing to do with such extremists...The Muslim Council of Britain deplores the proposed march by Islam4UK, a front organisation of extremist fringe group al-Muhajiroun, as a deliberate action to provoke hatred and division in the society.'*
- 3.53 Since no cartoon frogs were likely to complain the PCC did consider a complaint from a concerned citizen in June 2010, when the *Daily Express* ran a bizarre story headed 50 FALL ILL AFTER KISSING A FROG (1/2/2010). The paper was required to remove the story from its archives and to publish a correction saying that article *'contained several errors. It said doctors blamed 50 salmonella cases in the US on children copying the heroine of the Disney film, 'The Princess And The Frog', by kissing frogs. In fact, not all the cases were in children and only four occurred after the film's release. Improper handling of frogs was identified as a likely cause of the outbreak, but there was no evidence that anyone had become ill from kissing frogs.'*
- 3.54 However when approached by concerned citizens about the front page use of distressing photographs of dead and mutilated bodies (for example, the pictures of Saddam Hussein's sons), or image of people in the process of killing themselves, the PCC has insisted that such things are a matter of 'taste and decency' over which the Commission has no jurisdiction. Yet front pages are now appear upright in high street display stalls and in supermarkets where passers-by cannot avoid them. It is this same reluctance to consider the impact of shocking images on children and those of a nervous disposition which prevents the PCC from intervening over the display of 'upskirt crotch shots' of women celebrities by the *Daily* and *Sunday Sport*, which ran a 'Miss Upskirt' contest in 2007 and used images provided by 'Phil the Dynamo Dwarf' - *'A photographer with an unusual niche expertise'*.
- 3.55 There is a certain irony in the fact that the PCC regards a distasteful image as beyond its capabilities, and yet will tolerate inaccurate and misleading headlines which should be covered by several Clauses of the Editors' Code. In 2005, they ruled that a headline should be regarded as a comment and thus not subject to, for example, Clause 1 (Accuracy) of the Editors' Code.
- 3.56 Three members of the Campaign for Press and Broadcasting Freedom complained that the *Daily Express* headline (27/7/2005) BOMBERS ARE ALL SPONGEING ASYLUM SEEKERS was inaccurate, not least because at the time the identity of two of the suspected bombers was unknown. They insisted that they were not 'third party complainants' as they stood to be at risk if

such pejorative stories encouraged radical Islamists to believe they were justified in attacking the majority population. They pointed out to the PCC that neither of the two men who had been identified was an asylum-seeker, One was the child of refugees, the other had arrived in Britain as an unaccompanied minor and had since been granted indefinite leave to remain in the country.

- 3.57 The headline's inaccuracy was repeated in the first line of the article: *'The suicide bombers who tried to murder scores of Britons were asylum seekers who raked in more than £40,000 in state handouts, it emerged yesterday'*. The *Express* had thrown caution to the wind, failing to qualify the terms 'bomber' and 'killer' with 'alleged' or 'suspected' throughout.
- 3.58 Almost four months later (5/11/05) the PCC informed the complainants that their complaint had been rejected - in part because none of the men named had complained. (How likely was it that they would?). The PCC went on to say: *'While the Commission had previously censured newspapers for front-page headlines that have been insufficiently clarified or qualified by the following article - particularly by text that appeared within the body of the newspaper - it did not consider that that this example raised a similar breach of the code. The terms of the headline were clarified in the body of the article on the front page - that the two men had previously been "given sanctuary" by Britain and had therefore been involved in seeking asylum - and the Commission considered that readers would not have been misled as a result'*.
- 3.59 The PCC also made the case that the headline was *'expressing a view about particular people connected with a recent news incident'*. In short headlines are comments, news stories are supposed to be fact. From which it might be deduced that the public should realise that the very nature of a headline should be enough to distinguish it as 'comment or conjecture' rather than as 'fact' – a requirement of Clause 1 (iii). So that's all right then, but has anyone asked the readers?

#### **4. Press misbehaviour**

- 4.01 The revelations that have emerged about press malpractice as a result of 'Hackgate' and these Inquiry hearings have come as no surprise to anyone associated with MediaWise.
- 4.02 The experiences of the founders of PressWise exemplify a range of issues to do with the methods used to 'create' sensational stories. Linda Townley (nee Joyce), who died in 2010, was a former royal maid, who was falsely accused on the front page of a national daily (the now defunct *Today*) of stealing love letters from Princess Anne and offering them for sale to *The Sun*. It was claimed that this gross libel was based on a 'reliable' tip off to the paper from a senior police officer. When she tried to tell her side of the story in the *New Statesman* the press then laid siege to her brother David's home. This gross libel was later acknowledged with an out of court settlement after she successfully sued for malicious falsehood, but the libel was later repeated by some papers because her out of court settlement included gagging clauses.
- 4.03 Graphologist Diane Simpson had assisted the police in analysis of letters purportedly from the 'Yorkshire Ripper' while he was still at large. Later, still working with the police, she began to visit Peter Sutcliffe in Broadmoor. In January 1990 *The People* published a story claiming she was Sutcliffe's lover, under the headline RIPPER'S BROADMOOR KISSES WITH A BLONDE. After this patently false story she worked with hospital authorities to tighten up their internal security, only to discover a year later that photographs of her with Sutcliffe taken inside the hospital were to appear in a book. Then in October 1991 *The Daily Star* informed her it was to publish a story that she was visiting a trio of serial killers: Sutcliffe, Ian Brady and Dennis Nilsen. She warned them their story was incorrect, that she was only visiting Sutcliffe on a professional basis and that publication might jeopardise her research. Having discovered she was on her way to London the paper waylaid her at Euston station. A card was held up with her name on it, and she automatically identified herself, thinking that there may be a problem at home (she was foster parent at the time). A photographer then appeared and snatched a picture which was used next day (3/10/91) with a front page headline FACE TO FACE WITH THE RIPPER and a story on p.5.
- 4.04 The paper ignored her denial and spoke of her as a 'Silence of the Lambs' investigator, implying she had been interviewed outside her Chester home the previous evening when she was actually delivering a lecture in Croydon. Her apparent collusion with the paper got her banned from Broadmoor. In October 1992 the *News of the World* publicised the forthcoming book about Sutcliffe under the headline ten women who love the beast with a picture of her captioned 'NO SHAME: Sutcliffe with one of his women visitors'. She was advised not to bother complaining to the PCC since it might only further compromise her situation.
- 4.05 Desiree Ntolo had never heard of the PCC when she was turned into a figure of derision by the tabloids. An Essene Rabbi and former teacher from Cameroon with six young children, she had built an oratory from mud in her



back garden, only to be told by Redbridge Council that it required planning consent. Persuaded that publicity would help her cause she spoke to *The Sun* (NICE HUT WITH ALL MUD CONS), *The Daily Star* (DES RES IS A MUD HUT IN DAGENHAM) and the *Daily Mail* (OUT OF DAGENHAM). All these stories appeared on the same day (25/6/1992) but it was to be the start of a media assault on her dignity that lasted for months. The next day *The Sun* sent down a Sky dish and ran with MRS MUDDY GET A BUDDY.

- 4.06 When she found one reporter climbing over her wall he offered her money if he could pretend to have stayed in the building overnight. He persuaded her he would get into trouble if he didn't bring back the story. Later when she told a *Daily Star* reporter he should pay for wasting her time, his paper ran with MUD HUT MUM BEGS FOR CASH. All of the stories misrepresented her, suggesting she had built a mud hut because she was homesick rather than a place in which to pray and meditate. None of the nationals were to record that that she later won her court battle with the council - but only after the oratory had been demolished.
- 4.07 One of the most damaging examples of bad journalism came in an appalling piece by columnist Barbara Amiel (*The Sunday Times*, 26/3/1993). Relying entirely on inaccurate information culled from cuttings she vilified Ms Ntolo, whom she didn't realise was a fellow Jew. Using highly pejorative language, she attacked 'the madness of immigration without integration' under the headline HERE'S MUD IN YOUR MULTICULTURAL EYE and suggested that the mother of six should leave England or set up home on a remote island. The family received racist hate mail and death threats and her 12-year-old son was attacked at school. Ms Ntolo never received redress for her ill-treatment.
- 4.08 The consequences of sensational and intrusive coverage can be even more tragic. Leveson Inquiry panel members would be well advised to watch the BBC documentary 'My Brother David' (1989) about the short life and tragic death of youthful actor David Scarboro (*Grange Hill* and *East Enders*) who leapt to his death from Beachy Head after a series of inaccurate stories about him in the popular press. He could not cope with the constant scrutiny and had become ill. His family were pestered in particular by the *News of the World*, and when the location of the psychiatric unit where he had sought help was revealed, he discharged himself and took his own life. His distraught parents left the country to live in France afterwards.
- 4.09 *Big Issue* seller Barry Melarickus also took his own life after the PCC refused to uphold his complaint of inaccuracies in a sensational splash and spread in his local paper the *Bristol Evening Post* (6/12/1996). A former mental health nurse, he had been disabled by a motorbike accident in which both his knees were broken. He had also suffered a nervous breakdown and his marriage had collapsed. Barry had been approached by reporters looking for a local version of a recent claim in *The Sun*: 'Beggar' makes £1,000 per week selling *Big Issue* (28/10/1996). When such stories appear from time to time (BEGGAR WHO PULLS IN £18,000 A YEAR, *Daily Express* 9/5/1994; SCANDAL OF THE BEGGARS EARNING £18,000 *Daily Mail* 21/8/2003) local papers will always seek out a provincial example.

- 4.10 Barry invited the reporters into his room in a half-way house. He talked openly about how the vulnerable people living there had recently been burgled and about the conditions that had led him to become homeless. He was getting his life back together and had recently obtained a car, quite properly, under the government mobility scheme. He claimed the reporters wanted him to supply information about anyone who might be abusing the benefits system. He said he could not help them but was shocked when the newspaper pilloried him for having a car, and claimed that he had 'run away' when approached. This was a physical impossibility since he was still reliant on crutches, but was regarded by the PCC and an 'insignificant' inaccuracy. Yet his local paper had ridiculed a man who was struggling to put his life back together, making him out to be a devious con-man in the eyes of his children, his friends and former workmates, and the city that was his home. On receiving the news of the PCC decision Barry went home and killed himself.
- 4.11 As long ago as June 1997 the voluntary organisation Childlessness Overcome Through Surrogacy (COTS) which was the subject of a string of negative stories in the *News of the World* reported to us and the PCC that improper attempts were being made to access its bank and telephone records and the medical records of its Chairwoman. On at least three occasions someone posing as a BT worker, and as the husband of the COTS chairwoman, had tried to obtain itemised telephone bills from BT, and someone posing as a GP had sought private information from her GP. On Monday 9 June a woman claiming to be the (London-based) Chair called their (Scotland-based) bank and asked for a document relating to a payment which had only recently appeared on the COTS bank statement. She said she would call in for it two days later, but on the Wednesday phoned to say she could not come till the Friday and was told she would need to bring proof of identity. Meanwhile COTS had informed the police. On Thursday 12 June a man calling himself Andy Morton telephoned the COTS secretary claiming to be from their bank wanting to discuss the same payment. She checked with the bank who informed her that no-one of that name worked for them. COTS again informed the police and we took it up with the PCC who promised to 'place on file' these 'rather disturbing events'. (letter, 19/6/97)
- 4.12 This was just one of numerous questionable approaches made to COTS members by *News of the World*. While the issue of surrogacy is undoubtedly a matter of public interest, whether such questionable approaches are justifiable is another matter. Would Rebekah Brooks appreciate her own surrogacy arrangements being subjected to the level of intrusion the *NoW* applied to others over the years?
- 4.13 One particularly distressing example was how the *News of the World* handled a story headlined *The BABY NOBODY WANTS* (26/7/1998). It claimed that the couple who had arranged for a surrogate birth had now abandoned the pregnant surrogate mother who had children of her own and did not want their child. The story contained several inaccuracies and both sets of parents came to us for advice, including the surrogate couple who had sold their version of events to the paper and the other couple whose names and in

snatched pictures were published even though they had formally asked not to be identified for the sake of the unborn child.

- 4.14 We arranged for both couples to meet us at a safe house and over the course of a day they resolved their differences and signed a joint statement which was issued to all the press. We then submitted their complaints to the PCC with their consent – having explained that the *NoW* was unlikely to pay the remainder of the promised fee to the couple who had sold their story.
- 4.15 The then *NoW* Editor Phil Hall rebutted their claims and told the *UK Press Gazette*: “*Every single quote, every word of it, is on tape*”. And yet we received a copy of an internal memo, signed by the reporter whose by-line appeared on the original article, admitting that he did not have all the quotes on tape, and confirming that the most damaging – in which the surrogate mother was quoted as saying she had had her sterilisation reversed in order to bear the child – had never been said. He wrote that it had been added to his copy along with several other emotive phrases. This alone demonstrated the validity of the complaint.
- 4.16 During the time it took for the PCC to resolve the complaint the surrogate mother was taken seriously ill and hospitalised. We became aware that the *NoW* was trying to find her, adding to the family’s anxiety. I called Stuart Kuttner, then managing editor of *NoW*, to let him know that the life of both mother and child was at risk and to ask that to the call his men off. His response was unsympathetic. He asked on whose authority I had called him and put the phone down. Later we learned that the surrogate couple had been persuaded to drop their part of complaint and we informed the PCC accordingly. Subsequently the PCC rejected the other couple’s complaint and MediaWise was attacked for taking up the matter.
- 4.17 Sally Gross also left the country after being ridiculed twice by national newspapers and let down by the PCC. Unaware that her gender had not been clear at birth (a condition known as ‘intersex’) she had been brought up as a male within a Jewish community in apartheid South Africa, studied to be a rabbi then converted to Roman Catholicism and entered the Dominican order where she was ordained priest as Fr Selwyn Gross OP. It was only while working as a teacher and theologian at Blackfriars in Oxford when she was reaching 40 that her true condition became clear. She was told to leave the order and advised to begin living as a woman. Hers was an extraordinary story, but one *The People* chose to break as a prurient ‘Priest in sex swap’ story (4/8/96). The reporter had even posed as a council official to get information from her landlord, and she complained of being harassed in the street. The entire incident left her feeling suicidal.
- 4.18 Her efforts to set the record straight through the PCC took 8 months and met with no success. When later she offered to tell her true story to *The People*, she found herself humiliated again. It was consigned to the corner of a spread which contrasted her abandonment by the Catholic Church with a Church of England decision to provide legal support for a vicar caught

having sex with a boy by Thai police - complete with lurid pictures of his arrest.

- 4.19 After American investigative reporter Greg Palast exposed the Labour Party's 'fees for favours' scandal in *The Observer* in summer 1998, the *Daily Mirror* then edited by Piers Morgan, ran with a front page splash 'The LIAR Exposed: Damning US court judgement on sleaze reporter' (8 July 1998) referring to a court case about a completely different story. As a journalist Palast took it on the chin although it was clear to him that this was a way of the Labour-supporting paper getting back at him.
- 4.20 Worse was to come. On 29 Sept 1998 the *Mirror's* splash was 'SEX PEST SCANDAL ROCKS LABOUR CONFERENCE'. It continued on page 2: 'FROM THE LIAR TO THE LURKER: UNDERCOVER MAN'S SNEAKY NIGHT AT A LABOUR HOTEL,' with a picture caption 'Palast bluffed his way into Margaret's room at the Colonial Hotel'. The inference was clear and unsubtle. According to contacts we had at the conference Morgan had been delighted with his 'scoop'.
- 4.21 Subsequent investigations, by lawyers, other journalists and by ourselves demonstrated that the story was an elaborate and inaccurate construct. Palast's reputation was injured through innuendo and misrepresentation, but as a foreign national and a freelance he was, financially, in no position to sue. He came to PressWise for help and we took it up with the 'Fast, Free & Fair' PCC. Although the *Evening Standard*, which had repeated the story, quickly apologised and paid Palast damages, and we supplied detailed evidence to support his case, Piers Morgan insisted that the matter be dealt with in court.
- 4.22 In an extraordinary letter (13/11/98) the Mirror Group lawyer Martin Cruddace implied that we were engaged, with Palast, in a conspiracy against the *Mirror*, referred to '*the enormous quantity of surrounding evidence*' and said that the *Mirror* would only '*co-operate with the Commission*' if Palast agreed that '*the co-operation would be in full and final settlement of any claims he has against (the Mirror group)*', ending enigmatically: '*The reasoning for this request is well known to (PCC Director) Guy Black*'.
- 4.23 The PCC's response was equally extraordinary. It resolved '*not to take the complaint further*' and advised Palast to sue the *Mirror* for defamation, even though Palast had revealed information which he may have wished to rely upon in court. Cruddace had opined that: '*It would be inequitable for any documents, submissions or findings to be used in a subsequent libel action*'.
- 4.24 Yet the PCC requires only that no proceedings are in motion when a complaint is being considered, and had received assurances from Palast that he had no intention of pursuing the *Mirror* in court.
- 4.25 His experience helps to explain why ordinary citizens are sometimes reluctant to take issue with national newspaper editors. They risk receiving short shrift.

- 4.26 From our experience it is not surprising that ordinary citizens are reluctant to take issue with national newspaper editors, especially if they choose to do so on another's behalf. They are likely to receive short shrift.
- 4.27 In the run up to the May 2004 expansion of European Union, the *Daily Express* ran this front page (20/1/2004).



4.28 It identified by name and sinister image a man whom it claimed was one of 1.6 million gypsies planning to come to the UK to abuse the generosity of the benefits system. The figures may have come from a much earlier Migrationwatch report warning with the expansion of the EU on 1 May 2004 Britain would be inundated.

4.29 A freelance journalist who works with MediaWise was on an unrelated story in Slovakia and tracked down the man pictured here, a few days after 1 May. The man was still living in Slovakia, working on his home and had no intention of coming to the UK. Perhaps his face just happened to fit the image the *Express* wanted. The man denied that he had made the comments attributed to him.

- 4.30 We learned that the story had originally been commissioned from a news agency by the *Daily Mail*, but had been spiked. The agency was paid off and told they could place it elsewhere.
- 4.31 The results of our investigation into the dubious validity of the story were given to *The Guardian*, but when the *Daily Express* was contacted for a comment, the freelance was told the paper would sue if the article were to be published. Rather than face expensive legal action, *The Guardian* dropped his feature, so the truth was never published.
- 4.32 In July 2004, MediaWise received several approaches from people about the provenance of a front page *Daily Star* article headlined '£10,000 TO BE A MUSLIM: Sick bin Laden plot to recruit Brit students' (20/7/04). We looked into the story and in August wrote to the editor and to the PCC noting that the rather inflammatory article was strikingly similar to a story on the self-styled militant Hindu Unity website<sup>11</sup> which also contains ran articles headlined 'Good News - Muslims starving to death' and 'The gospels are the first Nazi manifesto'. We also pointed out that the leaflet referred to had been the subject of stories in the *Daily Telegraph* and *The Times of India*

<sup>11</sup> [www.hinduunity.org](http://www.hinduunity.org) also has a page dripping blood onto a 'Black List' of enemies ranging from the Pope and Sonja Gandhi to Osama Bin Laden.

three years previously when it had caused tension between Sikhs and Muslims in Derby.

- 4.33 The *Daily Star's* response, issued by the legal department via the PCC, was to claim two separate sources for this (old) story whom they were not obliged to identify. They dismissed MediaWise as a '*wholly unconnected third party*' and made gratuitous reference to our previous exposure of their nonsensical 'Plot to Kill Blair' story, suggesting that once again we were merely seeking 'publicity'.
- 4.34 The PCC concurred with their assertion that they did not have to identify their sources and rejected the complaint, even though we pointed out that community relations are a matter of concern to all citizens, and that the PCC had itself warned editors against publishing '*inaccurate, misleading or distorted reporting may generate an atmosphere of fear and hostility that is not borne out by the facts*'.
- 4.35 MediaWise has become used to these bully boy tactics to scare off complainants, and the PCC's supine attitude, but for members of the public they are at best off-putting, at worse indicative of an arrogance that sets itself above both the law and human decency.
- 4.36 Back in the early 1990s one woman who was intending to go on TV to complain about a *Daily Mirror* story withdrew after she was warned by someone claiming to be from the legal department of the Mirror group that they had more information about her which the paper would have no compunction about publishing if she went spoke out.
- 4.37 Until this Inquiry, and since the demise of TV programmes *Hard News* and *Right to Reply*, anyone willing to 'go public' with their complaint on TV had to appreciate that they would be considered 'fair game' and might have to face further unwarranted press interest. For that reason MediaWise adopted the policy 'We don't supply victims' to all requests from the media, and have acted as a buffer to protect those who come to us for assistance.

## **5. Cheque-book journalism, copyright and photographs**

- 5.01 It is important to define what we mean by 'cheque-book journalism'. The practice of 'buying someone a drink' or covering 'out-of-pocket' expenses is a conventional and generally accepted method of dealing with sources. Whether such payments are made by cash or cheque, reporters will normally seek reimbursement through their expenses and may even be required to supply receipts. Here is a serious danger that the exorbitant habits of some national newspaper journalists and editors will inhibit perfectly natural social intercourse when gathering stories. Buying expensive gifts, or lubricating relationships in a more ostentatious way, should be a sure indicator that the arrangements have gone beyond the bounds of acceptability.
- 5.02 Some professional people (doctors, lawyers, scientists, etc) expect to be paid a fee for use of their time or expertise in the development of a story. Freelance journalists and professional publicists make their living quite legitimately from selling stories. These are not 'corrupt' practices or bribery, and should never be seen as such. Generally speaking they are part of normal human interactions, and should not be criminalised. If a journalist needs crucial background or foreground information it is perfectly reasonable to take a contact out for a meal or drink, providing costs are not excessive.
- 5.03 Journalists rightly regard it as an abuse of power and a hindrance to press freedom when public relations agencies expect them to pay for specialist information. The alarm bells that ring over such practices should also sound when journalists make similar propositions to sources.
- 5.04 True 'cheque-book journalism', as Nick Davies confirmed in his evidence to the Inquiry, really functions as a form of restrictive practice. The purchase of an 'exclusive' is an attempt to keep information away from rivals. In our view if that information is genuinely in the public interest, it should not have a price tag and access should be universal. Those who sell their stories not only lose control of them but are often persuaded to sign entirely one-sided contracts obliging them to hand over any materials the publication requires of them, as well as agreeing not to talk to rivals, and effectively to indemnify the publication by asserting that everything they say is truthful – even though the publication may later embellish it without consultation.
- 5.05 It is the exclusive purchase of information from key players in a story which is usually the focus of most criticism. Purchasing exclusive serialisation rights to a book may be a legitimate business transaction, but special problems have arisen (for example, in the cases of Sonja Sutcliffe, Darius Guppy and Nick Leeson) when the author has a criminal record or is an associate or relative of a convicted criminal. Paying witnesses in court cases, or criminals, suspects and their associates, is regarded as the most offensive form of cheque-book journalism, and has been outlawed.

- 5.06 Even paying victims of crime or catastrophes, or their relatives, to obtain an 'exclusive' may be considered distasteful. Following the Hillsborough tragedy in 1989 many relatives of the dead and injured were offered money to tell their stories, a practice which might be regarded as an unwarranted intrusion into grief.
- 5.07 Newspaper editors or programme producers are willing to 'invest' often large sums of money to obtain the rights to a person's version of events because they believe it will increase their circulation/ratings. These are primarily commercial rather than journalistic decisions. The main reason for doing so is to prevent other papers or broadcasters from obtaining access to information that may be in the public interest or, more usually, simply judged to be of interest to the public. There is a difference.
- 5.08 Although some will argue that this competitive approach to news-gathering is appropriate in the free market, it is worth stressing that the freedom of the press should not be 'a licence to print money'.
- 5.09 A blanket ban on cheque-book journalism would put many quite legitimate journalistic practices at risk. It would be very difficult to devise appropriate legislation to outlaw abuses of the cheque-book, especially since there will be conflicting views about which stories are 'in the public interest' and which are merely 'of interest to the public'. There may occasionally be legitimate reasons for making payments for information, but enticing people to supply 'exclusive' information with offers of large sums of money is a pernicious corruption of the notion of press freedom, especially since the primary purpose is usually to boost the circulation or profits of a publication. The purchase of an 'exclusive' has the effect of restricting access to important information or limiting the choice of the public should be avoided.
- 5.10 MediaWise advises people NOT to sell the exclusive rights to their stories, largely because few appreciate the longer-term consequences of such 'deals'. They lose control of their lives and their image because they cannot retain the right to influence how the material is used or presented. Editorial control remains in the hands of the publication. As a result many become 'victims of press abuse'. When a newspaper pays for an exclusive, rival publications seek to undermine it with 'spoilers'. Little thought is given to the effect this can have on the 'victim'. People who sell their story are regarded as 'fair game' in the circulation battles that ensue. Women in 'kiss and sell' stories often discover too late the risk of being branded for their actions; others are victimised because newspapers encourage informants to embellish the stories the papers want to buy.
- 5.11 Few people have much experience of dealing with the media, and fewer still appreciate the potential value of their story when blank cheques are brandished or pushed through letter-boxes by journalists scrambling to beat the pack. It would be far better if they obtained professional advice before entering into contracts, and provided a written text over which they have some control or copyright.



- 5.12 Some celebrated libel cases (including one involving Elton John and *The Sun*) have resulted from a newspaper's desire to believe the people it is paying. Newspapers have been hoaxed into accepting stories with high price tags (notably *The Sunday Times* and the forged Hitler Diaries). The practice encourages those who make a living from selling false information about their clients, often with the intention of avoiding less savoury revelations. The papers and the clients may be happy with the results, but the readers have no way of distinguishing between fact and fiction. That is why, in our view, all stories obtained through such payments should be signalled as such so that readers can make up their own minds about what level of credibility to give to them.
- 5.13 In advance of the 1995 trial of Rose West PressWise alerted the Press Complaints Commission and the BBC to concerns expressed to us by witnesses and relatives of victims about approaches made to them by print and broadcast journalists, including some offering money for their co-operation. Several had begun to realise the implications of agreeing to sell their story. Quite apart from their own peace of mind, there was a risk that a miscarriage of justice might occur if testimony was considered tainted. Some had even moved home or gone into hiding to avoid further press/media attention. PressWise investigated their claims and discussed the issues with Victim Support, the investigating police officers, representatives of both Gloucestershire County Council and Gloucester City Council, and the Lord Chancellor's Department, before contacting the PCC.
- 5.14 As a direct result of our intervention, PCC Chair Lord Wakeham, issued a confidential Memo to newspaper editors on 27 Sept 1995 reminding them *'to be especially mindful of the Code of Practice in dealing with this entire matter. It is of course particularly important to ensure that relatives of the accused and witnesses are not harassed or caused unnecessary anxiety by otherwise legitimate news-gathering activities.'*
- 5.15 However, following the trial we noted with disquiet that some people who had earlier been pursued with offers of cash for their stories were criticised for continuing to expect payment for information or opinions by the very people who had made them aware of the 'market value' of their story in the first place.
- 5.16 Despite critical investigation of such practices by the Attorney General in 1966 after the Moors Murder trial and in 1983 by the Press Council after the Yorkshire Ripper trial, the Attorney General had to return to the issue following the West trial after it became clear that some 19 witnesses had been offered money for their stories by newspapers.
- 5.17 There is much hypocrisy about the practice within the industry. Often the public only learns that stories have been paid for when a rival publication exposes the transaction in an attempt to rubbish the opposition. The

tabloid newspapers that brandish the cheque-book most liberally are the ones most likely to criticise people who sell their story to a rival paper.

- 5.18 It is not a criminal offence to sell or buy 'a story'. However, there can be a very serious risk to the judicial process when witnesses in criminal cases, or suspects and their associates, receive payments for telling their story. The practice allows both prosecution and defence lawyers to challenge the validity of the testimony of those who have been paid. That could result in either a guilty person going free or an innocent person being gaoled. Anyone offering financial inducements to witnesses risks falling foul of the courts, with penalties ranging from fines to imprisonment.
- 5.19 During the Jeremy Thorpe trial in the 1970s it became clear that the main prosecution witness, Peter Bessell, would receive double the fee offered by a newspaper for his story if the defendant was found guilty. This discovery clearly undermined his credibility as a witness. In 1988 the *Sun* was fined for contempt after declaring the guilt of a doctor accused of raping a child. It had agreed to fund a private prosecution after entering into an agreement with the mother which gave it exclusive access to interviews and pictures. Several trials were halted during 1995 after prejudicial press coverage - including that of Geoff Knights - when Judge Roger Sanders described as 'unlawful, misleading, scandalous and malicious' reports in *The Daily Express, Daily Mail, Daily Mirror, Daily Star, The People, The Sun, Sunday Mirror, and Today* for which it was thought payments had been made, although later the papers were found not to have been in contempt.
- 5.20 The pernicious influence of 'cheque-book journalism' can be seen where difficult to access information can only have come from a public servant of some description. Stories and photographs from inside prisons - about the killers of James Bulger, or Soham murderer Ian Huntley, for example - or from inside special hospitals - about Moors murderer Ian Brady in Ashworth and Yorkshire killer Peter Sutcliffe in Broadmoor, for example. We have dealt with numerous cases where similar suspicions have arisen.
- 5.21 There is good reason to consider that some 'tip-offs' will have had a price tag - as when the press happen to be present at a significant police raid or arrest, for example. In one example as far back as November 1995 the press were alerted to that fact that the architect Jeremy Dixon and his partner, ITV newsreader Julia Somerville, were being interviewed by the police about private photographs that had been processed at Boots the chemists.
- 5.22 Neither the Editor's Code or the NUJ Code deals adequately with 'cheque-book journalism', and both need to offer clearer guidance about the limits of acceptability especially in relation to the notion of the public interest.
- 5.23 As long ago as 2003, in our submission to the Culture, Media and Sport Select Committee Inquiry into Privacy, we called for PressBof Code Committee and the Ofcom Content Committee to 'make editors aware of

*the precise responsibilities they must agree to accept for the circumstances under which information and images are obtained (both from independent news and picture agencies and from non-press agencies like private detectives, for instance) before agreeing to publish and pay for them'. At the time both the Press Gazette and the Guardian had run stories about the use of private investigation agencies which provided a link between police officers willing to supply confidential information and news reporters seeking 'deep background'. We said at the time that such 'twilight negotiations may bring to light corruption of the criminal justice system, but it could equally be claimed that such relationships may themselves be corrupt.'*<sup>12</sup>

- 5.24 Following criticism of the *Daily Mirror* for offering cash to convicted fraudster Darius Guppy for his story, and the *Daily Mail* for paying £300,000 to publicise gaoled Barings' trader Nick Leeson's book, the Chair of the industry's Code of Practice Committee, Sir David English, suggested that it may be time to revise or revoke the clause. At the time Sir David was Editor-in-Chief of the *Mail* group. He admitted that his committee had not considered the 'out-of-date' clause for 3 years, and commented that it owed its origin to '*some grandiose announcement of the old Press Council around the time of the (Yorkshire) Ripper trial*'. He neglected to mention that he has been editor of the *Daily Mail* when it had been criticised for purchasing stories from relatives of Peter Sutcliffe. In 1983 Sir David described the Press Council's finding as '*short-term, short-sighted and smug*' which '*proves yet again that the Press Council does not truly understand the concept of a free press*'.
- 5.25 Trading in stories has long been lucrative. Journalist Christopher Browne has claimed that in 1994 *The Sun* alone was paying its agency and freelance journalists £8million for stories and tips.<sup>13</sup> At that time an ex-directory phone number was worth £100, and informants included police officers, chauffeurs, taxi drivers, airport staff, bar staff and hairdressers. And if sufficient leads had not come in as deadlines approached at the *Sunday Sport* and *Daily Sport*, he wrote '*the news editor sometimes instructs six or seven reporters to go into a private room for the afternoon and concoct stories zany and outrageous enough to titillate their readers*'.
- 5.26 Some years ago MediaWise exposed the way the *News of the World* had avoided PCC scrutiny by claiming that an inaccurate and intrusive story had only been published in its Irish edition – even though the woman at the centre of the story was London-based and the newspaper contained had the Wapping imprint of News International. The paper was relying on evidence from one of the touts who inveigle themselves into people's lives then peddle salacious stories to the tabloids. The one involved in this story

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<sup>12</sup> *Stop the Rot*, PressWise submission to the Culture, Media & Sport Select Committee Inquiry into Privacy and Media Intrusion, Feb 2003

<sup>13</sup> C. Browne, *The Prying Game: The sex, sleaze and scandals of Fleet Street and the media mafia*, London, Robson Books, (1996)

made a series of threatening calls to our office. Nor, as we have explained above and below, was this the only occasion when 'strong arm' tactics have been employed to avoid exposure.

- 5.27 The tabloids and so-called human interest magazines have been openly offering inducements for years. The lure of easy cash has persuaded many to sell tittle-tattle as well as hard factual information. Editors have often claimed that it is greed which fuels the trade. There was distressing evidence of this at the trial of two juveniles accused of the murder of 10-year-old Damilola Taylor in 2002. The key prosecution witness, a 14-year old-girl, demanded the £50,000 offered by a national newspaper to give evidence of what she had seen.
- 5.28 But it is the newspapers that offer the lure, produce questionable contracts to obtain exclusive access and leave notes offering blank cheques for people's stories. Those despised for 'kissing and selling' are often turn out to have been victims themselves. MediaWise has heard time after time from young women who have effectively been blackmailed into giving 'their side of the story' or risk sensational exposure with no means redress after a third party had tipped off the press about their encounters with married or just famous people.
- 5.29 MediaWise took part in a Central TV programme on the topic during which several women, including Edwina Currie's daughter, who had allegedly 'kissed and sold', told how they had been conned or cajoled into accepting money as the lesser of two evils, not realising that they were condemning themselves in the process. The programme was set up more as a late-night 'bear-pit' than as a calm forum for rational debate, and few people in the audience seemed willing to appreciate the circumstances described by the women, and Piers Morgan (who was either editor or the *News of the World* or the *Daily Mirror* at the time) poured scorn on their claims from a distant studio. He would later admit to his part in ruining people's lives for the sake of a story, following a 'Damascene conversion' once he had fallen from grace.
- 5.30 We dealt with the case of a young woman who hoped to pay off her student debts by selling information about her encounter with a convicted rapist. Isolated with a friend in a London hotel by a tabloid her photo was taken before a lengthy 'debrief' ensued. When she objected to posing on a bed in her underwear, the newspaper reneged on the agreed payment on the grounds that the story did not meet the terms of the entirely self-serving contract it had drafted.
- 5.31 In another case a hard-up young couple who were offered money to strip for a visiting sheikh in his London hotel room found themselves at the centre of an elaborate trap set by the *News of the World's* Mahzer Mahmood. Ostensibly the paper was trying to expose a solicitor whom it believed was running a sexual services scheme from his workplace. The couple were plied with drinks and handed drugs for the sheikh before being taken to his room in the Savoy. But the paper named the wrong law

firm and had to publish a fulsome apology the following week and pay damages. Meanwhile the young couple were ostracised by their family at a time when the woman's mother was dying in hospital. Although they had committed no crime they received no apology and did not even receive the promised fee.

- 5.32 One of the more tragic and telling examples of the risks of selling exclusive rights to a story was what happened to Mandy Allwood who was expecting octuplets in 1996. Against her better judgement, she claimed in January 2002, she and her partner were introduced to Max Clifford who sold her story. She told *The Observer* in 2002: *'Max was ringing us saying that different newspapers were offering us things. And I never wanted to go with the News of the World, thought they were a scandal sheet, but that's what was agreed. I was told it would just be a case of packing an overnight bag and going down for the interview. I ended up being away from home in hiding for two or three months.'*
- 5.33 She had been persuaded that signing an exclusive contract would afford her some protection, but it also became a contractual issue and she felt obliged to make a promotional TV video for the paper. Rival papers set out to undermine her and her partner Paul Hudson. There are always people willing to say anything for the right price. She became a figure of opprobrium, and when all eight were still-born the press besieged the funeral which was supposed to be a private event. She fell out with Clifford and they ended up in court over the contract. The tragedy and the media frenzy scarred her for life. In January 2009 the *Daily Mail* ran a 'haunting interview' with Ms Allwood, sympathetic to her plight. Four months later it ran a far from sympathetic piece about her alcoholism and the 'disgraceful mess' she had made of her life calling her 'the architect of her own unhappiness'.
- 5.34 Salacious stories may sell newspapers, but that does not make them the 'stuff' of good journalism. Many journalists would prefer to invoke a 'conscience clause' when told to produce material they find offensive, intrusive or inaccurate. Nonetheless it is revealing to consider the marketing ploys of the burgeoning market in 'confessional' journalism.
- 5.35 What follows are some examples of the persuasive hype used such agencies to sell themselves to more or less unsuspecting punters:

<http://www.cash4yourstory.co.uk/>

*"Sell My Story" You could earn thousands! We are the UK's leading press agency. We are famed for getting you the highest fee for your story. We offer a fast and free service aimed at turning your story into money in a sensitive and sympathetic manner. We sell to all national newspapers and women's magazines on a daily basis*  
*Story to Sell*

*We are trusted by all major publications so it means we can sell your story for more money. We can arrange for you to tell your story on national television. Our syndication department means we can sell your story across the world earning you even more money. We make selling your story easy- let us do all the hard work.*

<http://www.featureworld.co.uk/>

*'Up to £6000 paid for your story in Women's Magazines, National Newspapers and National TV. Do you want to sell a story? Do you want to share a real-life story with others? Or raise money by selling your true story for charity?*

*'Have you experienced a life-changing event? Beaten an illness? Blossomed after divorce? Found love? Want to expose a love-rat or cheat? Ever read a real life story in a national newspaper or women's magazine and thought 'That could be me?' Perhaps you dream of selling your life story and becoming famous or being on TV?*

*'But maybe you're nervous about selling your story to a national newspaper or women's magazine yourself or through a big impersonal news agency? Then read on..... During more than 20 years as a journalist I've discovered many people thought about selling their story but they don't know how to go about it. Which national newspaper or women's magazine should they sell their story to? How much money would their true story be worth?'*

<http://www.findextrawork.co.uk/selltruestory.php>

*Sell True Story For Cash*

*How to sell your true story for a cash payment to a newspaper, magazine or TV producer with this free advice and information:*

*Journalists, feature editors and TV producers are always looking for a story and readers love to read true stories. If you have a true story to tell you may be able to sell it to a newspaper, magazine or television company for money. You will need to agree to be photographed, filmed or to provide photographs and sign copyright to the magazine or newspaper. You should not sell the same story to other papers or magazines, unless all parties have agreed to syndication rights. This is unusual, though may be negotiated for a top story, though an individual publication may offer you a higher fee for exclusive rights.*

<http://www.firstfeatures.co.uk/>

*Sell your story to earn BIG BUCKS today! Welcome to First Features!*

*We at First Features are committed to getting YOUR stories told for the BEST price in the RIGHT publications.*

*If you have a story, our friendly and professional writers will be able to turn your words into real cash. And ensure you are happy with the result.*

<http://www.frontpageagency.co.uk/>

*How do I sell my story? Got a story to sell? You Could Earn £1000's (sic)*

*We are the UK's leading story agency that represents your true story to the UK Women's magazines and national media. It doesn't matter if your story is about romance, success or a story with a happy ending. It can also be about Love Rats, Affairs, Divorces From Hell or how you got your revenge. You can even name and shame a cheating partner. Whatever your story, we want to hear from you... I want to sell my story.*

<http://moneyforyoureallifestories.com> *Want To Sell Your Story For More Money?*

*Tired of being told your story is worthless? Money For Your Real Life Stories is dedicated to helping women sell their true stories to newspapers and magazines. Our expertise and contacts in the newspaper and magazine industry will get you the best deal. So go ahead, sell your story to us and start earning.*

*Our service is completely free.*

*Your story will be publicised in many newspapers and magazines*

*You make money from your stories.*

<http://www.moneyforyourstories.com/>

*You can earn money for your story! Money for your stories is dedicated to help individuals make money from their true life stories and experiences. Our connections in the national and international media will ensure that your story is not only seen but read by a huge audience. Plus we guarantee you the best deal for your story.*

*Our service is completely free*

*Your story will be publicised in many newspapers and magazines*

*You make money from your stories.*

<http://www.moneyforyourstory.com/>

*Stories which will earn you big money right now:*

*Big Brother - big money to be made for any stories about a contestant in the show.*

*Royalty - a good picture or story about a member of the Royal Family will earn you a fortune.*

*Celebrities/Soaps - they may only be stars of the small screen but they are the staple diet of every newspaper.*

*Business/Banks - anything from 'Fred the Shred' or other bank bosses to financial tales of corporate greed from the City.*

*MPs - newspapers and magazines all love a story about a member of Parliament behaving badly.*

*Military - a story about someone serving their country, an act of heroism or how they have been let down.*

*Real-life - medical miracles, shaming criminals & love against the odds.*

<http://www.nationalstory.co.uk/>

*WELCOME! You've landed on the National Story Website – the online press agency that covers all the best stories throughout the UK.*

*If your personal story needs NATIONAL UK coverage we act as your press agent to ensure that you get this coverage through Newspapers, TV or Women's magazines.*

<http://newspaperstory.com/>

*This site deals with how people can sell their true life story to newspapers and magazines. If you have a novel, poem, or work of fiction this is NOT the right place for you. Instead you should approach publishers for this kind of work who can be located via search engines such as [www.google.co.uk](http://www.google.co.uk).*

*If you have a true story which you wish to tell to receive money and or to gain publicity for a cause or charity, or just simply to get something off your chest, then read on.*

*The true life stories magazines and newspapers are looking for are varied and include true health stories, true love stories, amusing animal stories and many more. Just take a look at the daily newspapers and magazines at any news agent.*

*It can be a little confusing to an individual on how to go about selling their story so here are the basic options.*

<http://www.photo-features.co.uk/>

*Sell My Story... Sell Your Story... Story To Tell... We are here ready to sell your story for cash today!*

*With Kelly as your media agent and story publicist, you are just a few easy steps away from [selling your story](#) and appearing in national newspapers and magazines like the Daily Mail, Daily Mirror, Daily Express, Sun, Star, Closer magazine, Reveal magazine, Chat magazine, That's Life magazine, Woman magazine, Woman's Own magazine, Now magazine, New magazine, Take It Easy magazine, Cosmopolitan magazine, Pick Me UP magazine and many more.*



<http://www.sellusyourstory.com/>

Why sell my story with SellUsYourStory.com?

Sell Us Your Story.com is operated by [swns.com](http://www.swns.com), Britain's biggest independent press agency. We will sell your stories to national newspapers and magazines, as we have been doing for nearly 50 years; and are the most respected name to help you sell a story in the business. We have dozens of stories and pictures printed in the national media every day - far more than anyone else on the web - earning thousands of pounds for people like you.

<http://www.sellyourstorynow.co.uk/>

'Selling your story? Hell yes. A picture is worth one thousand words, so sell your story right here. Who knows what it might be worth. Cold hard cash or fifteen minutes of ignominy. Sell it to a magazine? Give it away. Show people what you have got. Get the inside onto the outside. It is only skin deep. So peel off the clothes. Peel back the skin. Autobio. Autoerotic. Self destructing self pics. Pose and preen coz it's me me me. No it's for all of us. It's for the others. It's for those less fortunate than ourselves. Give it up for free. Give it up for me. Give it up.

Sell your story to The Sun. Tell the stars, tell the moon. Spread it far and wide. Why do we need secrets. It's not like you have anything to hide is it? '

<http://www.storieswanted.com/>

WELCOME. IS THIS YOU? "I THOUGHT I LEAD AN ORDINARY LIFE AS AN ORDINARY WOMAN -UNTIL THIS EXTRAORDINARY THING HAPPENED TO ME..." THEN READ ON...

Tell and sell your story today.

It's so easy! UK calls are charged at local rate from a landline.

Cash 4 stories.

Women's magazines and newspapers want to hear recent, extraordinary true stories for their "real-life" pages - stories like yours! We pay you great money for your time and trouble too. Be a star in a gorgeous woman's magazine just like the selection shown here

<http://www.talktothepress.co.uk/>

Do you want to sell a real life or news story to a newspaper or women's magazine? Are you looking for a media or press agent?

We will get you the best deal for your story. If you want to sell a real life story, or news story to a newspaper or women's magazine, or need help managing press attention in your life, email... for an informal and confidential chat about your story.

As well as helping you find the right publications for your story, whether that is a tabloid newspaper, a broadsheet or a women's magazine, we will ensure you get the highest possible fee for your real-life tale.

Selling a story through us is completely free and we can provide ongoing support, handling any media interest your true life story might generate. People who have sold a story through us have gone onto television programmes such as GMTV and This Morning.

<http://www.tm-media.co.uk/>

SELL YOUR STORY AND EARN THOUSANDS RIGHT NOW [TM Media](http://www.tm-media.co.uk/) is the best place for **YOU** to [sell a story](#). It may be a **real life story** a tale about a **celebrity** or a **scandal** that needs to be exposed. Whatever it is we want to hear from you NOW!

TM Media was set up to help people sell their real life stories to the **press** and other media by former National newspaper Editor Mark Thomas. Mark has decades of experience to work for you. No-one knows the newspaper and magazine industry better than TM Media. Mark was Editor of **The People** for nearly five years. Before then he was Deputy Editor of the **Sunday Mirror** and also ran the features department of the **Daily Mirror**. Previously he was Chief Reporter of the **News of the World**. His extensive experience means he knows ALL the tricks of the trade and can help and advise you on how to place and [sell a story](#) better than most.



- 5.36 An additional problem arises for those who sell the rights to their story. Copyright of the typographical arrangements of the words and illustrations as they appear in a newspaper lasts for 25 years. The copyright of written words may remain with the publication for 70 years beyond the death of the author. Much may depend upon the terms under which the material is published.
- 5.37 Material produced by a staff member belongs to the employer or publisher. A freelance journalist or ghost writer may be commissioned by a publication to write an article based on material supplied verbally by the person with a story to tell. The writer automatically retains copyright but usually assigns the first UK publishing rights to the paper in return for their commission fee. If a publisher buys 'all rights', the material can be resold or republished by its new owner in any form.
- 5.38 More often than not, people who enter into such contracts lack the benefit of legal knowledge or advice. When they 'sell their story' they usually agree merely to talk to an agent of the publication and supply such evidence as requested of them. The status of original material supplied by person doing the selling will depend upon the terms of any contract entered into. There is no copyright in ideas or information, as such, but once written the product becomes the intellectual property of the writer.
- 5.39 Information contained in articles and books immediately enters the public domain, but where exclusive rights have been obtained, any further use of a significant proportion of the material requires the acknowledgement and permission of the owner of the copyright who may reasonably demand payment of a fee.
- 5.40 What may appear to be generous payments initially may turn out to be paltry when set against the capacity of the material to earn revenue (through increased sales, advertising income, and syndication, dissemination via the electronic media, or film rights) for the publisher.
- 5.41 Newspapers and magazines are understandably, and properly, reluctant to offer copy-approval to the subjects of both news and features. However where someone's story has been purchased, natural justice requires that rather different rules should apply. Those who sign contracts or accept money are also expected to accept that a journalist's verbal assurance is guarantee enough that their story will not be distorted. Too often the finished product bears little resemblance to what had been promised; tweaks and twists are added to pander to the prurience or prejudices of the readers, and sell more copies. That is no excuse for abusing the trust of an informant.
- 5.42 Checking final copy for factual accuracy with key contributors does not mean handing them editorial control – it should be regarded as a courtesy to them and the readers, as a way of making sure that the facts at least are accurate.

- 5.43 So far as we are aware the PCC has never scrutinised such contracts to ensure that members of the public have not been bamboozled into contributing to a fiction. Indeed when we supplied a copy of one of these contracts to the National Heritage Select Committee in 1996 it was the first time they had been made public.
- 5.44 Having signed a binding contract in order to obtain a fee, usually without the benefit of legal advice, people are inclined to feel they have lost the right to complain. This in itself is an abuse of power.
- 5.45 We have dealt with several complaints about the eventual shape of stories 'sold' for paltry sums to 'human interest'/confessional 'real life' magazines. Once manipulated by skilful writers to meet the magazine's preferred style their stories have a quite different emphasis from that anticipated and sometimes with dire consequences for personal and family relationships. Often these stories have been sought out by news agencies, so they have not truly been 'volunteered' and so a special duty of care should apply. In our experience the protagonists could not be said to have given 'informed consent' to what is eventually published, as they rarely see the finished product – which should include the layout and illustrations. Those making a living from the 'real life' stories of others should be required to ensure that the product they sell is accurate, fair and properly understood.
- 5.46 In one case we came across the mother of a suicide had willingly contributed to a magazine in the hope it would help others deal with juveniles exhibiting suicidal behaviour. She was horrified when a particularly intimate remark she had made was turned into significant pull-quote. It set her own recovery back and showed remarkable insensitivity on the part of the sub-editor whose professional judgment precluded consideration of potential consequences for the protagonist of the story.
- 5.47 In another case, when challenged about a feature that included an image of young children alongside a concocted quote, an editor declared that she had not broken the letter of the Editors' Code by publishing a picture of the children of a mother murdered by the children's father. The picture had been supplied by the maternal grandmother, so she had the appropriate consent. But she had identified the children, and where they now lived, breaching the spirit of the Code at the time. Nor had she taken cognisance of the fact that they also spent time with their paternal grandmother, who knew nothing about the article until confronted by it in a newsagents while she was taking the children to visit their father in prison. It is surely incumbent upon an editor when dealing with such sensitive matters to consider the likely consequences for any minors involved before proceeding with a commercial arrangement to publish.
- 5.48 It is insufficient to claim that a contract has been struck between adults, since most members of the public have little experience of media processes and the implications of the publicity they and those close to them might have to endure. In television, the rules about obtaining 'informed consent' have been toughened with the spread of reality TV, and

the BBC at least requires producers to seek contemporary consent for repeat broadcasts, especially for programmes dealing with sensitive matters. No such obligations apply to 'entertainment' magazines.

- 5.49 Members of the public are also seldom aware that they retain the copyright in photographs they have taken, even after they have supplied them to a publication, whether voluntarily or under contract.
- 5.50 Over the years we have had numerous examples of publications, locally and nationally, retaining photographs supplied to them, notably by grieving relatives. On occasion they have been digitised and then treated as part of a publication's stock library. They have then been sold on to others wishing to use them, without consultation let alone consent of the original owners.
- 5.51 The Editors' Code has no specific clause on photography, although references are made to the difference between acceptable and unacceptable circumstances under which pictures can be obtained. We have had complaints about some papers using 'stock' pictures as illustrations, without a thought for those depicted. There have been complaints about personal photographs being used without proper consents, and of newspapers copying, keeping and reusing images supplied for single usage.
- 5.52 Simply supplying a copy of a photograph in goodwill, particularly of a relative who has been a victim of crime or died in tragic circumstance, for example, does not confer the right to multiple use, nor does it transfer any property rights to the publisher. Yet we have had occasion to contact newspapers that have copied and sold on pictures supplied voluntarily by grieving relatives. It has become common practice to lift pictures from the internet and social media sites without attribution or consent. This blithe disregard for copyright is something publishing companies would be quick to go to law about if it were their property that was being misappropriated.
- 5.53 It is an area of journalistic practice to which the Code Committee should be turning its attention, especially given the increasing reliance upon so-called 'citizen journalists' to supply pictures. It is high time the Code acknowledged the existence of digital cameras and Photoshop and included some guidance about the circumstances under which manipulated images may (or may not) be published. Meanwhile the PCC should consider offering guidance to editors that the use of manipulated images should be clearly marked as such, and should not be used to illustrate hard news stories other than in truly exceptional circumstances.

## 6. 'Self-regulation', the 'conscience clause', the Press Complaints Commission and the 'Right of Reply'

- 6.01 The history of press self-regulation in the UK is one of recalcitrance on the part of the employers. 'Gentlemen journalists' first devised a Code of Conduct in the 1880s to differentiate themselves from those whom they felt were letting the side down by producing sensational and scurrilous copy. In 1936 the National Union of Journalists (NUJ) adopted a Code for its members, at a time when public disquiet about press standards had given rise to suggestions that journalists should be registered and struck off if they failed in their obligations. Neither Code has ever been formally recognised by Editors as a valid expression of their journalists' ethical stance.
- 6.02 MediaWise considers that journalists who are required to collect stories under circumstances which they regard as unethical must have the right to refuse. Operating in a hostile employment environment with no formal career structure, and fierce competition for jobs, few are likely to say 'No' unless and until there is a 'conscience clause' in their contracts that allows them to refuse to act unethically. Indeed, it would appear that editors believe they are the only people with the right to determine what a journalist's conscience may allow. The clear message is that 'you do as you are told and deliver what is required'. Inevitably most staff, agency and freelance journalists will operate on the assumption that their personal interests are best served by satisfying the demands of editors rather than relying on their sense of what is right and wrong or acceptable behaviour.



6.03 The 'Daily Fatwah' was going to be published in the *Daily Star* on 17 October 2006. It was supposed to be a satirical riposte to the controversy caused when Danish newspaper *Jyllands-Posten* published cartoons of the prophet Muhammed on 30 September 2005. Only a staff revolt prevented publication of this 'spoof'. This is a paper produced by what the current editor Dawn Neesom told the Inquiry is 'a Jewish company' and which the owner Richard Desmond denied as having a vendetta against Muslims.

6.04 Editors may decry the journalistic cultures of other European countries but, for all their faults, European newspapers are not the facing the opprobrium now being heaped on journalists in the UK. In countries as different as France and Spain and Romania a 'conscience clause' is written into law and employment contracts.

- 6.05 The Swedish Press Council, which regulates all forms of mass communications, supervises a code of conduct devised by all parties across

all media. In a section on the integrity of the journalists it contains the warning: *'Bear in mind the provision in the Collective Agreement for Journalists according to which a journalist can not be ordered to write against his/her conviction or to carry out humiliating assignments.'*

- 6.06 It is worth noting that the interim findings from the recent MediaAct<sup>14</sup> survey of journalists in 12 European and two Arab countries indicates that journalists place more store on their consciences than on any formal system of regulation.
- 6.07 This may explain the scepticism many journalists share about the PCC. When NUJ members complained to the PCC in 2004 about editorial practices on *Express* titles which went against the grain of their consciences, the Commission said the issue was an industrial matter that fell outside its jurisdiction. The matter was referred to the Editors' Code Committee and rejected.
- 6.08 As recently as 2009 Society of Editors' Director Bob Satchwell told the BBC's Media Show that a "conscience clause" was unnecessary: *"The person who is responsible for publishing is the editor, it's the editor who gets the writ and it's the editor who technically could finish up in jail, under the law. So it's the editor who has to be the final arbiter, have the final say."* Yet the editors set the Code, and sit on the board that polices it, from which working journalists are excluded. And the PCC, which says the journalists' consciences are not a matter for them, now wants the power to order the disciplining of journalists who breach the Editors' Code.
- 6.09 There is an historical irony here since it was the NUJ that argued for a Royal Commission in 1947 to investigate the risk to freedom of expression caused by increasing concentration of ownership of the press and the potential influence of advertisers on editorial content. The union supported the Commission's call for a General Council of the Press (GCP) to govern the behaviour of the press, from conditions of employment and training to issues of ownership, and to promote the interests of the consumers and conduct research into the long-term social and economic impact of the print industry.
- 6.10 However, it was only under the threat of statutory regulation that the industry finally agreed set up the GCP in 1953. A decade on the GCP was severely criticised by a Second Royal Commission (1962) which again threatened statutory regulation unless its performance improved and lay members were appointed. The GCP adopted the reforms and became the Press Council. It began to issue more authoritative rulings on press misconduct and on threats to press freedom and published booklets on Contempt of Court (1967), Privacy (1971) and Defamation (1973).
- 6.11 Nevertheless the Younger Committee on Privacy (1973) still found it wanting: *'We do not see how the Council can expect to command public*

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<sup>14</sup> The Media Accountability and Transparency study is an EU-funded research project into media regulation scheduled to finish in July 2013. See [www.mediaact.eu](http://www.mediaact.eu)

*confidence in its ability to take account of the reactions of the public unless it has at least an equal membership of persons who are qualified to speak for the public at large'. The Committee also called for corrections to be given equal prominence to offending articles, a call that remains unanswered to this day.*

- 6.12 A Third Royal Commission on the Press was set up in 1974 and chaired by Lord McGregor of Durris, who was later to become the first Chair of the PCC. Its 1977 Report was even more critical of the PC's ineffectiveness: *'It is unhappily certain that the Council has so far failed to persuade the knowledgeable public that it deals satisfactorily with complaints against newspapers,' pointing out that it had no written Code of Conduct against which press output might be measured.'*
- 6.13 The NUJ withdrew from the PC in 1980 considering the Council *'incapable of reform'*. The PC continued to reject the idea of a Code against which press behaviour might be judged. A series of Private Member's Bills during the 1980s calling for a statutory 'Right of Reply' and legislation to protect Privacy, were unsuccessful but indicative of the mood of the times.
- 6.14 By the time the Calcutt Inquiry into Privacy & Related Matters was set up in 1989, the Press Council had appointed lawyer Louis Blom-Cooper (who would later chair MediaWise) as Chair and former NUJ General Secretary Ken Morgan as Director. They had begun a process of reform which included a Code of Practice. As a result the NUJ had rejoined the Council.
- 6.15 When the Calcutt Report (1990) proposed further reforms, again under threat of statutory intervention in the form of a tribunal to adjudicate on complaints, the industry pulled the plug on the Press Council. In its place it set up the Press Complaints Commission from which working journalists and their representatives were excluded.
- 6.16 With funding channelled through Press Standards Board of Finance (PressBof), and the late Sir David English (Chair & Editor in Chief, Associated Newspapers) in charge of the Editor's Code Committee (a position now held by his successor Paul Dacre) the PCC's sole brief was to adjudicate on complaints relating to the Editors' Code, rather than its predecessor's broader remit covering standards and press freedom. The overwhelming majority of Commission members were either working in or closely associated with the newspaper industry. They were chaired by Labour peer Lord McGregor who replaced former Press Council employees with staff he brought with him from the Advertising Standards Authority.
- 6.17 This moved headed off the immediate threat of statutory intervention but the then Heritage Minister David Mellor MP commented that the press were now *'drinking at the Last-Chance Saloon'*. He was later driven from office after a press campaign which highlighted aspects of his private relationships.
- 6.18 Asked to review the new system after it had been operating for 18 months, Sir David Calcutt was highly critical. In his second Report (January 1993) he

itemised a series of recent instances of intrusive stories in which the press had published information about the private lives of senior politicians, and concluded: *'... the Press Complaints Commission, as set up by the press, has not proved itself to be an effective regulator, and have had to recommend that the Government should now introduce a statutory regime.'*

- 6.19 The press, of course, rejected his conclusions and startling revelations about leading Conservative politicians continued to make headlines. Indications that the Department of National Heritage might offer start up funding to the nascent PressWise were hastily shelved.
- 6.20 Unsurprisingly there was a stalemate on the issue of press regulation. The Conservative government delayed making a decision until the summer of 1995 when it responded to the 4th Report of the National Heritage Select Committee on 'Privacy & Media Intrusion'. The Secretary of State for National Heritage, Virginia Bottomley MP (who herself had been 'outed' by *The Independent* as having had a child out of wedlock), announced that statutory controls would not be introduced; but recommended some reforms to the PCC.
- 6.21 By now the PCC had its lay representation, and PressBof had conveniently appointed a new Chairman, Lord Wakeham, a former Conservative Chief Whip. In 1998, following the death of Diana, Princess of Wales, and the ensuing furore over press harassment, Lord Wakeham introduced some changes. Yet more changes, to *"strengthen the protection of the vulnerable,"* were made in December 1999 influenced by passage of the Youth Justice and Criminal Evidence Act of 1999.
- 6.22 When Lord Wakeham stood down to avoid embarrassing the PCC over his directorship at Enron, the American energy giant which had collapsed amid allegations of fraud and corruption, he was replaced by former British ambassador Christopher Meyer, who signified his arrival by announcing more changes. His successor was another Conservative peer, Baroness Buscombe, who took over in 2009 and launched the PCC's first 'independent review' chaired by a one of the Commissioners who stood down for the duration.
- 6.23 Buscombe, too, had to resign, and her place has been taken by yet another Conservative peer. Lord Hunt's current efforts to reform the system is the industry's fifteenth attempt to 'get things right', again in the shadow of scandal and calls for statutory regulation, and another ignominious chapter in the history of press 'self-regulation' in the UK.
- 6.24 It does not help that there has been a whiff of establishment nepotism about the way the PCC has been populated. Its first chair was Labour peer Lord McGregor who had previously chaired the Advertising Standards Authority whence he brought in Mark Bolland first as his Executive Assistant and then as its first Director.
- 6.25 Lord MacGregor was replaced as Chair in 1994 by Tory peer and celebrated 'Mr Fixit' Lord Wakeham. When Bolland left in 1997 to become deputy private

secretary to the Prince of Wales and later a columnist with the *News of the World*, he was replaced, without advertisement, by his partner Guy (now Lord) Black. Their civil partnership in 2006 was witnessed by the Chief Executive of Telegraph Media Group, for whom Lord Black now works, and Rebekah Brooks then editor of *The Sun*.

- 6.26 Black had previously been a special advisor to Lord Wakeham, and when he left to become Director of Communications for the Conservative Party Black was replaced as Director by another former researcher for Lord Wakeham, Tim Toulmin, who came from a newspaper family. He and Black were also alumni of Peterhouse, Cambridge as was Sir Christopher Meyer.
- 6.27 Baroness Buscombe had been Assistant Secretary for the Institute of Practitioners in Advertising, and chief executive of the Advertising Association before taking over as PCC Chair in 2009. Within six months Guy Black had become chair of the PressBoF which funds the PCC, and was enobled, taking the Conservative whip. He was introduced to the House of Lords by Lord Wakeham, whom the new PCC Chair Lord Hunt, another Conservative peer, admitted to this Inquiry had encouraged him to apply for the PCC chair.
- 6.28 Now the PCC has imploded, but not before announcing that agreement had been reached within the industry, notwithstanding this Inquiry, on the terms under which self-regulations should be re constituted. It is significant that when faced with a requirement to account for themselves in public, some editors responded to the current crisis by coming to the Inquiry's opening seminars beating their breasts (although more in the manner of a disturbed gorilla than a humble penitent) and then offered to succumb with a startlingly similar series of reforms – daily Corrections Columns and even the possibility of fines – which they have spent years rejecting.
- 6.29 These facts go towards an appreciation of why many journalists and members of the public have been suspicious of the PCC, seeing it more as club set up to protect publishers from statutory controls rather than as an impartial regulator. On numerous occasions MediaWise has challenged the PCC on these grounds, sometimes in public debate with editors. They have all been staunch defenders of the status quo on air, but privately have expressed their doubts about the efficacy of the system. After one debate on BBC R4's *The World Tonight*, former *Observer* editor Donald Treford admitted that much criticism was valid but explained that editors had to toe the line in public or the entire edifice of self-regulation would crumble, and who knows what would replace it.
- 6.30 The Trust has consistently lobbied for reforms at the PCC and PressBoF, many of which have been implemented. In our 2004 report *Satisfaction Guaranteed?* we recommended that the PCC should provide a hotline for members of the public via the regulator as a means of advising editors where there may be a serious risk of unnecessary suffering or harm being done to innocent people by the printing or broadcasting of words or images.



- 6.31 We also called for an extension of the one month time limitation on complaints; it is now two months. The PCC has also demonstrated more flexibility about time constraints over complainants' responses to correspondence, a latitude previously only granted to newspapers.
- 6.32 On behalf of complainants we had regularly called for the PCC to take more of a stand about media scrums, and about persistent harassment by journalists. The advice we used to issue now appears on the Commission's own website.
- 6.33 The Commission's adoption of an internal review process is also something MediaWise had called for, although we believe the Independent Reviewer should function as a first line of appeal from either party over PCC decisions and adjudications rather than merely review issues of process.
- 6.34 Our criticisms of the PCC's website also seem to have been taken on board. It has vastly improved, and is more user-friendly. The Editor's Code Book produced by PressBof, and its promotion by the PCC has been a welcome contribution to media literacy, for members of the public and editors alike.
- 6.35 Our advocacy, often in conjunction with special interest groups, on behalf of children, the mentally ill, victims of crime, relatives of suicides, asylum-seekers and refugees, and other minority groups, and in opposition to cheque-book journalism have resulted in the issuing of guidance and in some cases significant changes to the Editors' Code of Practice.
- 6.36 The PressBof Editors' Code Committee and the PCC took up some of our recommendations to the 2003 Culture, Media & Sport Select Committee Inquiry into Privacy and Media Intrusion. We suggested that media professionals and members of the general public should regularly be consulted about the content of the Code of Practice, and that there should be more opportunities for the public and media professionals to discuss their concerns about media practices.
- 6.37 However it took the Editors' Code Committee almost ten years to acknowledge the valid concerns of relatives of suicides that newspapers should take special care when reporting suicide methods. Tragic events around Bridgend in 2007-08 and suicides among young men in Northern Ireland eventually woke the PCC to its responsibilities over suicide coverage.
- 6.38 These improvements alone have been insufficient to reverse the scepticism of journalists and members of the public alike about the independence and effectiveness of the PCC. At every new crisis of confidence about press misbehaviour the public are assured about editors' commitment to self-regulation and the Code of Practice. It is touted as if it were a last bastion against the risk of state control and as a vital guarantor of a healthy, open democracy.
- 6.39 Of course, we are all against sin, but the road to the hell of punitive state intervention has been paved with mellifluous assurances of good behaviour

while flagrant breaches of the law take place. Citizens may rightly wonder whether their supposed watchdogs have turned feral and can no longer be trusted, and whether those who are supposed to check the watchdogs are too tame and are running scared of them.

- 6.40 Since the Information Commissioner's revelations in 2006 about the illicit means by which some newspapers and their agents obtain information, newspapers have forfeited the right automatically to invoke 'protection of sources' to avoid explaining the provenance of published information. The credibility of the press may have been shot to pieces by the 'Hackgate' scandal, but cheap headlines, sensational claims and celebrity gossip, often fed into the media by the public relations industry have long since generated levels of public distrust that will take years and radical changes in the industry to overcome. As the recession deepens, newsrooms suffer staffing cuts, readers quit buying newspapers, and advertising shifts to the internet, the interests of shareholders and advertisers have perhaps begun to rank higher than the concerns of readers and journalists. (See Section 8, *Corporate social responsibility, below*)
- 6.41 The PCC's abject failure to intervene when newspapers were crucifying the parents of Madeleine McCann and others associated with the investigation into her disappearance, weakened any claim it might have to be upholding standards of journalism. Its failure to properly respond to the Information Commissioner's reports on illicit procurement of private information, and to thoroughly investigate unlawful activities by the *News of the World* have shredded any modicum of credibility it had left. Its ostensible purpose was to provide the public with guarantees that the Fourth Estate would be held to account if it failed to operate within its own agreed terms of reference, let alone the law of the land.
- 6.42 Even in sticking to its inadequate brief the PCC often sends out confusing messages. For example, in 2001 the PCC refused to uphold a complaint by TV presenter Vanessa Feltz about incorrect details of her sexual activity on the grounds that she had spoken openly about her private life and so deserved no protection even if the story was untruthful. Simultaneously the PCC upheld a complaint about an accurate report about the sexual life of another TV presenter, this time on the grounds that she had not previously publicised her private life and there for deserved protection even if the story was true. Meanwhile it has upheld the rights of the lovers of other similar 'public figures' to tell 'their side of the story'. It does not seem to have a very consistent approach to balancing the right to privacy against the right to freedom of expression.
- 6.43 In February 2003 the PCC ruled that the privacy of actor Julie Goodyear had been breached by *The People's* publication of a picture taken of her relaxing in her garden, but the PCC had refused on three occasions to support parents who were seeking to protect the privacy of their child who had been born through a surrogate, a novel arrangement at the time. Harassed by the press at the time of his birth they were persuaded to sell their story. To demonstrate that they were not doing it for the money they ignored an offer

of £10,000 - a very large sum in 1984 - and accepted £1,500 from another paper. On their son's first birthday they were subjected to another media scrum. They were in the middle of the adoption process then required of such novel arrangements, and one of the journalists convinced their best protection was to agree an exclusive deal with him. He got the boy's picture for £500 but made no mention of the adoption issue. The couple moved to a small village when it was time for their son to enter secondary school, to avoid problems when he reached puberty. They sought help from the PCC to protect his identity but their pleas were dismissed - on the grounds that their unwise decision under pressure 12 years earlier had stripped their child of any right to privacy.

- 6.44 At the time Lord Wakeham as PCC Chair had warned the press that Prince William, who was also just starting secondary school, *"is entitled to the same protection from media intrusions as any other child is. I would expect the same for my own child who is also starting a new school next term..."* (speech at St Bride's Institute, 23/8/95). Meanwhile the PCC had ruled in adjudications against the *News of the World* and *The People* for publishing pictures of Earl Spencer's wife while she was ill. *'Earl Spencer may have sought publicity in the past (but it) cannot reasonably be taken to mean that, henceforward, every aspect of the private affairs of his wife is a matter that the press has a right to put into the public domain.'* Such contradictory decisions fostered a belief that the PCC had one set of rules for the rich and well-connected and another for the poor citizen.
- 6.45 It should be axiomatic that all citizens should have 'a reasonable expectation of privacy' when not in a public place or a public stage. However, by accident of economic circumstance, for many people the entry to their home is in a very public place - on a public highway or exposed to public view. The wealthy can afford to buy their privacy through protection by high walls, long drives, security devices and expensive lawyers.
- 6.46 If everyone is entitled to respect for personal privacy - 'family life, home, health and correspondence' - and intrusions beyond the exposure of crime, corruption or risks to public health, safety or security (the 'public interest' exceptions) required informed consent, a lot of stories in the popular newspapers and magazines might not make it into print. As it stands editors feel at liberty to determine who is and who is not a celebrity, and when they should cease to be. While some 'celebrities' may indeed court publicity, the Mephistophelian pact they make the moment they respond to media interest is constantly used against them to justify gross intrusions. Even those whose mere function (TV presenters, for example) puts them in the public eye are expected to tolerate press scrutiny that most people would find unbearable.
- 6.47 People who enter the public sphere as a result of a tragedy feel that their right to privacy is ignored in perpetuity, especially when they are revisited for comments on anniversaries or when similar events occur. These provide stories for the newspapers quite cheaply but at the cost of peace of mind and their ability simply to get on with life.

- 6.48 It does not seem to matter if their lives and views are misrepresented. Unless they are sufficiently well endowed to be able to proceed to court their protestations are ignored. If the citizens of Austria, Belgium, France, Germany, Greece, Norway, Sweden and Switzerland suffer unwarranted or inaccurate representation by the press they enjoy a statutory right of reply, of the kind commended by the Council of Europe. If they can, why cannot citizens of the UK?
- 6.49 MediaWise shares the view that all members of the public should be able to invoke a right of reply if they have evidently been misrepresented. It is a very practical way of demonstrating a commitment to accuracy, especially as the technology now makes it such a simple process. Unfairness and errors in coverage are often the consequence of inadequate journalistic skills or sloppy sub-editing. Earlier objections from editors were that publications would be choked with corrections and rebuttals if citizens had the right to present, unmediated, their side of the story or opinion. Online versions of the publication could carry the rebuttal at the head of the comments grid, as commended by the Co-ordinating Committee for Media Reform, providing the printed edition also indicates where the response can be found.
- 6.50 Indeed this should satisfy most complainants, including politicians, rather than having to spend time and energy pursuing an often incomplete and insignificant correction or apology. Of course this right would not need to be invoked if editors insisted that story sources and quotes had been checked, interviews recorded where possible, and protagonists approached to verify their position where doubt might exist. Nor need it require legislation if the industry formally acknowledged the right and the remedy, and agreed that the regulator should adjudicate where misrepresentation was disputed.

## 7. Regulating for the future

- 7.01 MediaWise has long argued for a more open and accountable system of self-regulation, and one that is less closely tied to publication owners and editors. A *Guardian* leader column challenged parliamentary self-regulation in November 1996. *'At the moment the people see only a body which claims unique privileges to itself without any of the concomitant responsibilities...prepared to change...but only when it suits them. They see a body scornful of whether or not its proceedings command public confidence. It cannot go on like this.'* It went on to quote Lord Nolan: *'the public needs to see that breaches of rules are investigated as fairly, and dealt with as firmly by Parliament, as would be the case with others through the legal process'*. Change 'Parliament' to 'the Press' and you have, in a nutshell, the case for a more independent and effective system of press regulation.
- 7.02 The Press Council of Ireland and the Irish Press Ombudsman offers a useful model which has both credibility and the benefit of being underpinned by statute without having the force of law. It has the added advantage of already being recognised by many of the UK based publishers whose publications have Irish editions. Modelled on the much longer-established and respected Swedish system, the Irish Press Council was created by a Steering Group formed from all sectors of the Irish print media, including the NUJ representing the interests of working journalists.
- 7.03 To ensure as great a degree of separation as possible between the institution and the industry is 'regulates', this Steering Group set up a separate independent Appointments Panel which then chose the seven non-industry members (the majority) of the Press Council; the remaining six places are held by nominees from the main print industry sectors (national and local newspapers, magazines, and the NUJ).
- 7.04 The original Steering Group also advertised and short-listed for the post of Press Ombudsman, who is the first port of call for complainants who fail to get satisfaction from a publication's editor. The Press Council itself appoints the Ombudsman, and then acts as an appeal body for any party dissatisfied by the findings of the Ombudsman whose primary task is to resolve complaints through mediation, as swiftly as possible and at minimal costs to those involved.
- 7.05 News organisations, in print and online, can opt to become members of the Press Council and abide by its rulings and enjoy certain privileges in law by so doing which provide some protection from actions and awards for defamation.
- 7.06 However the new system is developed, it is vital that the public are able to ascertain easily whether or not a publication is covered by the regulator. The regulator's website should contain a list of members, and membership should be encouraged by restricting VAT exemption only to those publication registered with the regulator.

- 7.07 However it is also clear that media convergence, in terms of both ownership of outlets and platforms, makes separate regulators for print and broadcast media increasingly untenable in the longer-term. Journalistic staff are now expected to operate across all platforms, often simultaneously, yet currently different regulatory regimes apply to print and broadcast output and production, while blogging, for example and perhaps quite properly, is virtually free of any such constraint.
- 7.08 MediaWise rejects the notion that such convergence strengthens the argument for the lifting of all forms of regulation. Quite the reverse. Rather, technological convergence, increased concentration of cross-media ownership, and multi-skilling among media professional across delivery platforms makes stronger the case for common standards of conduct and regulation to apply to the print, broadcast and online media. Regulation is after all, for the benefit of the public rather than the convenience of an industry and its investors.
- 7.09 The ownership of outlets and platforms gives media companies extraordinary influence over public discourse and culture. They are accountable only to those with a vested interest in their commercial success. Few of their readers/users, and even many of their employees, have much idea who the ultimate owners are, what their financial interests are, or the extent to which their other business or political interests shape media content.
- 7.10 Online versions of national newspapers already 'broadcast' video footage on the web free of the impartiality requirements of mainstream broadcasters regulated by Ofcom, and even refer to this as a television service (as in TelegraphTV, for example).<sup>15</sup> Allowing powerful corporations, including those with only tangential interests in UK-based news media, to call in aid freedom of the press (by which they really mean protecting their investment from any form of statutory regulation) to justify broadcasting party political programmes is inimical to the maintenance of open democracy.
- 7.11 It may currently be the task of the Competition Commission, the Department of Business, Innovation and Skills, and Ofcom, to check that individual companies do not have control of an inordinate share of the market, but it is not unreasonable to expect media regulators of the future to alert readers and users to any potential or perceived conflicts of interest between news purveyors and their other business interests.
- 7.12 The old dispensations no longer apply. Members of the public cannot be expected to take it on trust that notions of editorial freedom and independence still separate news content from public relations and advertising, and the vested interests of stockholders. Product placement is not merely an issue for broadcasters - it dominates the thinking of web design and access to web content.

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<sup>15</sup> N. Jones, *Online Television: A threat to balanced political reporting*, Ch. 21 in *Web Journalism: A new form of citizenship*, S. Tunney & G. Monaghan (2009).

- 7.13 Nor is it appropriate for editors to simply assume that readers can decipher which information they are supposed to believe and which to take with a pinch of salt. As the Cardiff University study<sup>16</sup> quoted in Nick Davies' *Flat Earth News* has indicated, an increasing proportion of newspaper content originates in material supplied by the public relations industry, so editors can no longer rely upon a compact of trust between readers and journalists.
- 7.14 As desperation to attract revenue from advertisers increases, especially on web-based versions of publications and around user-generated copy, so the terms of the relationships between readers and producers must change. They must at least rely upon the assurance that journalists working across a variety of delivery platforms are operating to the same standards of conduct and within a unified regulatory framework.
- 7.15 If media self-regulation is to be transparent and equitable, there needs to be a single system, open to all, especially when there is a serious risk of unnecessary suffering or harm being done to innocent people by the online publication of words or images making it instantly accessible across the globe. A single system would ultimately be beneficial for the general public and media professionals alike. They would then all know where they stood in an increasingly crowded and confusing media marketplace.
- 7.16 Whatever the eventual shape of the new regulatory regime one important consequence of this Inquiry should be to ensure that publications:
- establish a regular spot within the news pages for a 'Corrections & Apologies' column;
  - indicate on the front page or contents page where inside reader can find PCC adjudications about the publication;
  - give equivalent prominence to corrections where the original headline and article were substantial;
  - reach written agreement with successful complainants about the wording of corrections and/or apologies, or offer a right of reply;
  - properly tag all cuttings and electronic records of articles where corrections have had to be made or apologies published, and;
  - offer compensation should the publication repeat the same breach.
- 7.17 In addition in-house protocols should be agreed for:
- acknowledging the right of individual journalists to obey their conscience in the gathering and the presentation of information;
  - the use and identification of digitally manipulated images;
  - indicating when and how payment has been made to individuals or organisations in the gathering of information and images.
- 7.18 The efficacy of the new system will be enhanced if were to have genuine sanctions rather than the convenient fiction that peer pressure maintains standards. Breaches of the Code should be treated seriously and consistent

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<sup>16</sup> *The Quality and Independence of British Journalism* (MediaWise, Feb 2008, <http://tinyurl.com/dcpmzu>) also cited in *Flat Earth News* by Nick Davies.

breaches should be dealt with severely. That editors whose newspapers have been found in breach have remained on the PCC or the Editors' Code Committee has contributed to contempt some feel about the current system.

- 7.19 Persistent breaches do not appear to impede career trajectories. As editor of the *News of the World* in 1994 Piers Morgan received a reprimand from the PCC and a dressing down from Rupert Murdoch over publishing pictures of Earl Spencer's wife while she was ill, but the following year he was made editor of another national the *Daily Mirror*. In 2000, while editor there, he again had his wrist slapped by the PCC in effect for profiteering in the City Slickers share-tipping scandal. His career as an editor ended in 2004 when he published hoax pictures which purported to show British soldier abusing Iraqi prisoners. Meanwhile, in 2005 his former subordinates, the 'Slickers' were convicted of conspiracy and James Hipwell was gaoled and Anil Boyrul sentenced to community service.
- 7.20 Quite apart from any punitive action against persistently offending editors, a sliding scale of financial sanctions, related to the severity of the breach, might help to convince the public that self-regulation is a serious business. Proprietors would be unlikely to tolerate lackadaisical reporting or editing if it had an impact on profits. Indeed, however modest the level of fines - perhaps measured against sales or advertising revenue to protect less well patronised publications - they would provide publishers with a stronger case for protection against the threat of litigation from successful complainants
- 7.21 PressBof or its equivalent could levy a 'goodwill bond' from publishers, over and above the annual the subscription, from which such fines would be paid. The bonds would be held by PressBof and an amount released to the regulator only once a formal adjudication had been made against a publication and any appeal procedure had been exhausted. The level of the bond could be based upon circulation figures or advertising revenue. A premium might be added if a company were to be found in frequent breach of the Code.
- 7.22 Only publications found to have breached the Code would be expected to replenish the fund at the level of the compensation awarded. In this way publications that comply with the spirit and the letter of the Code would not have to subsidise the errors of those who do not.
- 7.23 Breaches of the Editors' Code should be dealt with like any other violation of professional standards or human rights - with appropriate sanctions including compensation for the victim. Although the PCC claims that its services are free, obtaining evidence to support a complaint (which may even include, on occasion, purchasing transcripts of inquests or court cases) can be costly in comparison to a person's means. The time and worry involved also comes with a potential price tag - for time off work, for example.
- 7.24 It is entirely unreasonable that innocent victims of unwarranted and/or inaccurate media coverage should be expected to cover the cost of putting right the failings of a material published with commercial intent. Advertisers



expect to be compensated when errors appear in their copy, or publishers fail to honour their contractual obligations in other ways.

- 7.25 The PCC also claims that its services obviate the need for lawyers to become involved, it is disingenuous to claim that the publishers do not rely upon their legal departments or advisors in countering complaints, as we have seen. Complainants should not be denied the option of seeking and paying for advice from a lawyer or advocate, and should have the right to reasonable reimbursement if they are successful. There should be a cap upon the upper limit to reduce the likelihood of people complaining simply to access the compensation.
- 7.26 The argument for a genuinely independent regulatory system with power residing neither with government nor the industry, to protect everyone's rights – including the freedom of the press – has never been stronger. A single Office of Media Ombudsman (OMO) could act as a bulwark against erosions of press freedom from the politicians and well as holding producers of news to account.
- 7.27 A Media Advisory Panel (MAP) drawn from print, broadcasting and online communications producers and users supplemented by representatives of the general public could also deal with appeals from members of the public or publishers when disputes arise about adjudications by the Ombudsman. A single, simple system would bolster public confidence in the accountability of the print and broadcasting industries.
- 7.28 The MAP could also play a valuable role in developing and overseeing the validation of training courses, replacing the currently confused situation where several bodies now compete for the right to be considered arbiter of best practice in vocational training.
- 7.29 In particular, the MAP could be given responsibility for ensuring that those entering the media industries are given a thorough grounding in regulation and codes of conduct, and that those already at work receive opportunities to update awareness of their responsibilities through accredited industry-wide in-service and mid-career training on regulatory and ethical issues.
- 7.30 The MAP could also commission research into public attitudes towards media products and standards and to encourage dialogue between producers and consumers, particularly around ethical issues and reviews of Codes of Practice, to improve both the standards and standing of journalism. One of the futilities of much academic research in the field of journalism is that it fails to 'hit the mark'. It is often seen by practitioners as being too abstruse and too far removed from the rough and tumble of the real world of the newsroom seem to be of much practical benefit. The MAP could help to bridge this gap between the academy and the industry.
- 7.31 Among the many issues that would merit research would be the coverage and management of coverage of disasters, including their impact on the news-gatherers, the representation of specific social groups, particularly

children and minority groups, and 'low level' cheque-book journalism of the kind used when seeking out 'human interest' features.

- 7.32 The processes described here may seem expensive, but if the OMO and MAP between them incorporated the roles of the PCC and the Content and Complaints roles of the Ofcom (leaving Ofcom to deal with telecoms licensing and technical issues), a proportion of Ofcom's enormous budget would be freed up to establish the new regulatory regime.
- 7.33 A mix of public funds and contributions from the print and broadcast companies fits the pattern of co-regulation developed at Ofcom as well as protecting the democratic agenda. Just because public money is involved doesn't mean political control transfers to politicians. There is neither shame nor anxiety about public funds being injected into the new systems, since Parliament exists to defend the rights of citizens, and media regulation should be seen in that light. The 'Team Murdoch' propaganda machine has set out over the years to damage to the reputation of the BBC in pursuit of its own dominance of the airwaves, that it is danger of convincing public and politicians alike that state administered funding means state control and that market-driven, unregulated commercial media is the only acceptable form.

## **8. Corporate social responsibility**

- 8.01 The relatively recent introduction of corporate social responsibility reports by media groups like the BBC, the Daily Mail & General Trust, ITV plc, News Corporation, Pearson, Reuters, the Scott Trust and Trinity Mirror plc. is a welcome development, especially for an industrial sector one of whose primary purposes is to examine and comment on the failings and achievements of others. They are long overdue given what we now know about Robert Maxwell, Lord Conrad Black and News International.
- 8.02 Most of these companies are now publicly demonstrate their goodwill through publication-sponsored charity appeals, especially at Christmas, but the real interests of their staff and audiences are rarely mentioned.
- 8.03 As the Scott Trust has shown, and Sly Bailey of Mirror Group told one of the opening Leveson Inquiry seminars, the audit process can be strengthened by quarantining editorial from the risk of contamination by the other business interests of media companies. This is especially important if journalists are to report on the other business interests of their ultimate employers – notably forestry, oil, transport, and leisure - without fear or favour, especially where they may impinge upon significant financial, environmental, industrial or political events.
- 8.04 In January 2006 MediaWise presented to the All-Party Social Responsibility Group a set of 10 proposals which we still believe would improve public trust in journalism and strengthen confidence among journalists that they are recognised as important stakeholders in the process. They stem in part from the widely held concern that expressed in the credo of the International Federation of Journalists: *"There can be no press freedom if journalists exist in conditions of poverty corruption, poverty or fear."*
- 8.05 In our view these would make welcome additions to social responsibility audit of every media company.
- An in-house but independent Reader's Editor on every publication above an agreed circulation/ratings threshold.
  - A regular Corrections column or programme, which might include review of the company's own journalism.
  - A commitment to give suitable prominence to upheld complaints (and to offer compensation if appropriate).
  - Agreed minimum competences with which all journalists must comply within two years of joining the company.
  - A conscience clause in journalists' contracts.
  - Equitable wage rates for staff and freelances, and an end to so-called 'self-billing' (an arbitrary system of deciding how much freelances will be paid, after their work has been published).
  - Commitment to the development of some form of transparent career structure within the industry.
  - Mid-career skills updating and specialist in-service training to keep journalists up-to-speed on legislation and social developments.

- A commitment to diversity throughout the workforce, and especially in newsrooms.
  - Tough action on discrimination and bullying in the work place.
- 8.06 In our view this would vastly improve the standing and standards of journalism, and provide the basis for a genuine 'compact of trust' between journalists and the public. A more transparent approach to management aims and policies might also make for improved industrial relations. In an era of global media control, pay and conditions should be equable across borders, and if social responsibility audits do not include such commitments they are little more than window dressing. A company's ethic should extend across all its activities, and not just where it is convenient or expedient.
- 8.07 MediaWise believes that journalism is a vital part of the process of open democracy – so the corporations that own and control media outlets have a very special social responsibility - not as rumour monger or scare-mongers but as the ferrets of reliable information to contribute to informed public debate.
- 8.08 Journalists are the eyes and ears of civil society and the means by which the many different voices of the public are able to express themselves to those who develop and manage our social, cultural political and physical environment.
- 8.09 The primary audience of the journalist is the general public – not least because their employers expect them to help attract readers, listeners and viewers. To that extent journalists could be seen as popular advocates – alerting political, industrial, commercial and cultural decision-makers to the responses of the public to what is happening around them, and to them, and to what is being done on their behalf.
- 8.10 Information is power, and so as purveyors of information, and opinion, journalists do have power, and the responsibilities that go with it. They straddle the gap between two worlds – mediating dialogue between the 'haves' and the 'have-nots'. Their articles and programmes become the stuff of public debate. If they get it wrong everyone suffers.
- 8.11 Yet journalists are often expected (by editors and the public) to become instant experts on the topics they cover. However resourceful and inquisitive individual journalists may be, pressure of time means they must rely, often too heavily, upon 'common sense' and a few words from an 'expert'. Their words assume a special authority, even among policy-makers, simply because they are published or broadcast.
- 8.12 So this is an ethical as well as a professional dilemma. Journalists operate within a highly competitive industry in which there is no formal career structure, and where everyone is judged by the value and impact of their latest offering. Natural justice and an acknowledgement of the important social function they fulfil necessitates that they should be directly engaged in any process that seeks to regulate their behaviour and output.

## APPENDIX 1

### 1a. Former Board members of PressWise & MediaWise

- Fareena Alam (Journalist, Editor *Q-News*)
- Sir Louis Blom-Cooper (last Chair of the Press Council)
- Sheila Bloom (Director, Institute for Global Ethics UK Trust)
- Glenn Del Medico (former BBC lawyer)
- Charles Fletcher MBE (Director, Caledonia Media, ex BBC World Service Trust & Sky News)
- Prof Roy Greenslade (City University & *The Guardian*)
- Jocelyn Hay CBE (Founder & President, Voice of the Listener & Viewer)
- Pat Healy (Freelance Journalist & founder chair NUJ Ethics Council)
- Brian Jones (former Editor *Bristol Evening Post* & Associate Editor, *The Guardian*)
- Nicholas Jones (author & former BBC political correspondent)
- David Joyce (Charity worker & photographer)
- Stephen Jukes (Head of Bournemouth School of Journalism, formerly Reuter's head of Global News)
- David Kingsley
- Jim Latham (Broadcaster & Secretary, Broadcast Journalism Training Council)
- Annie McGann (Poet & lecturer)
- Prof Julian Petley (Brunel University & Campaign for Press & Broadcasting Freedom)
- Desiree Ntolo (Essene Rabbi)
- Naomi Sargent (Lady McIntosh, decd.)
- Diane Simpson (Graphologist)
- Matthew Taylor (formerly of IPPR & No 10 Policy Unit)
- Linda Townsend (Charity worker)
- Amanda Williams (Financial advisor)
- Robin Williamson (International Communications Forum)

### 1b. Past Patrons

- George Alagiah
- Yasmin Alibhai-Brown
- Joe Ashton MP
- Michael Cashman MEP
- Jean Corston MP
- Lord Gilmour
- Prof. Ian Hargreaves
- Rt Rev Richard Holloway
- Bruce Kent
- Alex Pascall OBE
- Diane Simpson
- Clive Soley MP
- Linda Townley
- Prof. Peter Townsend
- Polly Toynbee
- Tony Worthington MP

### 1c. Funders

Over the past 18 years PressWise & MediaWise have received funding from numerous individuals and the following:

- Allen Lane Foundation
- Lord Ashdown Charitable Settlement
- the Avenue Trust
- Barrow Cadbury Trust
- Camden Trust
- Comic Relief
- Diana Princess of Wales Memorial Fund
- Esmée Fairbairn Foundation
- EC Daphne Initiative
- Home Office Challenge Fund
- International Federation of Journalists
- Open Society Institute
- Joseph Rowntree Charitable Trust
- JRCT Racial Justice Committee
- Media Research Trust
- National Union of Journalists
- Syngenta
- West Midland Local Government Association

## **APPENDIX 2: CLIENTS AND PARTNERS**

Over the years PressWise/MediaWise has worked with the following in a variety of capacities:

- Action on Child Exploitation
- AFFECT (Action For Families Enduring Criminal Trauma)
- Aftermath
- African Initiatives
- Age Concern
- Al Muhajir
- AMITY
- Amnesty International
- Association of Greater London Older Women
- Avon Travellers Support Group
- BBC
- BBC World Service
- Big Issue
- BECTU
- Befrienders International
- British Association for the Study and Prevention of Child Abuse and Neglect
- British Council
- British Film Institute
- Bristol for Democracy Congress
- Broadcasting Standards Council
- Butterflies Project for Working and Street Children (Delhi)
- Campaign for Press & Broadcasting Freedom
- Careline
- Catholic Association for Racial Justice
- Centre for Policy Alternatives (CPA)
- Centre for Public Communication Research, Bournemouth University
- Centre for Studies in Crime and Social Justice, Edgehill College
- Centre for the Study of Law, the Child and the Family, Brunel University
- Centrepont
- Chichester Institute of Higher Education
- Childlessness Overcome Through Surrogacy (COTS)
- Chinese Information & Advice Centre
- Childline
- Child Psychotherapy Trust
- The Chronicle: Changing Black Britain
- Churches Child Protection Advisory Service
- Commission for Racial Equality
- Community Media Association
- Community Organising Foundation
- Confederation of Indian Organisations (UK)
- Consumer Congress
- Crossroads (SW)
- Cultural Diversity Advisory Group to the Media
- Dart Centre (Europe)
- Edinburgh International Television Festival
- EC Information Society Forum
- End Child Prostitution Pornography & Trafficking (ECPAT)
- English & Media Centre
- European Council for Refugees and Exiles
- Family Law Bar Association
- Federation of Irish Societies
- Federation of Small Mental Health Charities
- Food Commission
- Food Ethics Council
- Freedom Forum
- European Centre
- Friends & Families Traveller Support Group
- Friends United Network
- General Medical Council
- Glasgow Media Group
- Goldsmiths College
- GMB
- Greater London Authority (GLA)
- Greater London Pensioners Association
- The Guardian
- Gypsy Council
- Hackney Law Centre
- Highbury College, Portsmouth
- Immigration Advisory Service
- Information Centre for Asylum-Seekers & Refugees
- Independent Television Commission
- Institute of Communication Ethics
- Institute of Race Relations
- International Confederation of Free Trade Unions
- International Family Health
- International Federation of Journalists
- International Labour Organisation
- Internews
- Irish in Britain Representation Group
- Irish Post
- Joint Council for the Welfare of Immigrants
- Kent Asylum Media Group
- Kokani Muslims
- Liberty (NCCL)
- Lifeline International
- London Irish Press
- London Irish Women's Centre

- Mary Ward AEI Centre, London
- Maternity & Health Links (Bristol)
- Matthew Trust
- Medical Foundation for Care of Victims of Torture
- MediaChannel
- Media Diversity Institute
- Media Society
- Media Trust
- Mental Health Media
- MIND
- Minority Rights Group
- Muslim Women's Helpline
- National Association for the Protection from Abuse of Adults and Children with Learning Difficulties (NAPSAC)
- National Association of Citizens Advice Bureaux
- National Children's Bureau Sex Education Forum
- National Council of Voluntary Child Care Organisations
- National Foster Care Association
- NCH Action For Children
- National Union of Journalists
- Nugent Care Society
- 1990 Trust
- OneWorld
- Oxfam
- Papyrus
- Pascal Theatre Company
- The Portman Clinic
- PREDA Foundation
- Press Complaints Commission
- Producers Alliance for Cinema & Television (PACT)
- Prisoners Families Support Group Network
- Progress Training (SW)
- Public Law Project
- Quarriers
- Radio for Development
- Red Cross
- Refugee Action
- Refugee Council
- Reporting the World
- Responding to Conflict
- Royal College of Paediatrics & Child Care
- Royal College of Psychiatrists
- The Runnymede Trust
- Samaritans
- Sandwell Council
- Save the Children, Sweden
- Searchlight
- Sheffield International Documentary Festival
- Single Parent Action Network
- Sion University, Switzerland
- Southern African Association of Journalists
- Spurgeon's Child Care
- Sri Lanka Foundation Institute
- Subculture Alternatives
- Freedom Foundation
- Sustain
- Telephone Legal Advice Service for Travellers
- Teatro Technis
- Thomson Foundation
- UN Habitat
- UNHCR
- Unison
- UNICEF
- UNDP
- University of East London New Ethnicities Unit
- University of Cambridge Centre for Family Research
- University of Glamorgan
- University of Lincoln
- University of North London Child and Woman Abuse Studies Unit
- University of Nottingham Centre for Social Work
- University of the West of England
- University of Westminster
- The Voice
- Voice of the Listener & Viewer
- Women in Science, Engineering and Technology (SET)
- Women's Resource Centre
- Working Group Against Racism in Children's Resources
- World Association of Community Radio Broadcasters (AMARC)
- World Congress on Family Law and the Rights of Children and Youth
- World Health Communication Associates
- World Health Organisation
- Young People Now

### **APPENDIX 3: PressWise/MediaWise Publications**

Our publications include:

- *SENSITIVE COVERAGE SAVES LIVES: Improving suicide coverage* (2008)
- *EXILED JOURNALISTS IN EUROPE* (2006)
- *WORKING WITH THE MEDIA: Health & Environment Communication* (2005)
- *JOURNALISM AND PUBLIC TRUST* (2004)
- *SATISFACTION GUARANTEED? Press complaints systems under scrutiny* (2004)
- *FROM MARGINS TO MAINSTREAM: Putting public health in the spotlight* (WHO, 2003)
- *THE RAM REPORT: Campaigning for fair & accurate coverage of refugees & asylum-seekers* (2003)
- *DIRECTORY OF EXILED JOURNALISTS* (2003)
- *FROM THE MARGINS TO THE MAINSTREAM: Putting public health in the spotlight*
- *SPOT ON! A handbook for health communicators* (2000)
- *THE MEDIA & CHILDRENS RIGHTS* (UNICEF, 1999/2005/2010)
- *INFORMATION & CHILD RIGHTS: The challenge of media engagement* (IFJ, 1998)
- *TELLING IT LIKE IT IS: Ethnic Minorities and the Media* (1997)
- *CHILDREN IN THE PICTURE* (IFJ, 1997)
- *CHILD EXPLOITATION AND THE MEDIA* Forum Report & Recommendations (1997)



## **APPENDIX 4: Guidelines produced by MediaWise**

Working with journalists and other relevant agencies, Press/MediaWise has produced numerous guidelines for journalists

### **4 a. Guidelines for Professional Health Correspondents**

The following guidelines were devised by the MediaWise Trust (then PressWise), at the request of World Health Organisation (WHO) in Europe, in consultation with health communicators and correspondents from 51 European countries.

The first draft was presented to a meeting of the WHO European Health Communication Network (EHCN) in Moscow 1998, and was subsequently revised in consultation with the International Federation of Journalists (IFJ) and meetings of the EHCN in Denmark (1999) and Moldova (2000) before being adopted as a formal code by the WHO EHCN.

#### **1. First, try to do no harm.**

Human rights and the public good are paramount.

#### **2. Get it right.**

Check your facts and your sources, even if deadlines are put at risk.

#### **3. Do not raise false hopes.**

Be especially careful when reporting on claims for 'miracle cures' or potential 'health scares'.

#### **4. Beware of vested interests.**

Ask yourself 'who benefits most from this story?'

#### **5. Reject personal inducements.**

Always make it clear if material is being published as a result of sponsorship.

#### **6. Never disclose the source of information given to you in confidence.**

#### **7. Respect the privacy of the sick, the handicapped and their families at all times.**

#### **8. Be mindful of the consequences of your story.**

Remember that individuals who may be sick or handicapped — especially children — have lives to live long after the media have lost interest.

#### **9. Never intrude on private grief.**

Respect the feelings of the bereaved, especially when dealing with disasters. Close-up photography or television images of victims or their families should be avoided wherever possible.

#### **10. If in doubt, leave it out.**

#### **4b. Guidelines & principles for reporting on issues involving children**

Produced in association with the International Federation of Journalists and adopted by journalists' organisations from 70 countries at the IFJ Congress in Recife, Brazil, in 1998 and ratified at the IFJ Congress in Seoul, 2001.

##### **PREAMBLE**

Informed, sensitive and professional journalism is a key element in any media strategy for improving the quality of reporting concerning human rights and society. The daily challenge to journalists and media organisations is particularly felt in coverage of children and their rights.

Although the human rights of children have only recently been defined in international law, the United Nations Convention on the rights of the Child is already so widely supported that it will shortly become the first universal law of humankind.

To do their job of informing the public effectively, journalists must be fully aware of the need to protect children and to enhance their rights without in any way damaging freedom of expression or interfering with the fabric of journalistic independence.

All journalists and media professionals have a duty to maintain the highest ethical and professional standards and should promote within the industry the widest possible dissemination of information about the International Convention on the Rights of the Child and its implications for the exercise of independent journalism.

Media organisations should regard violation of the rights of children and issues related to children's safety, privacy, security, their education, health and social welfare and all forms of exploitation as important questions for investigations and public debate. Children have an absolute right to privacy, the only exceptions being those explicitly set out in these guidelines.

Journalistic activity which touches on the lives and welfare of children should always be carried out with appreciation of the vulnerable situation of children.

Journalists and media organisations shall strive to maintain the highest standards of ethical conduct in reporting children's affairs and, in particular, they shall:

- strive for standards of excellence in terms of accuracy and sensitivity when reporting on issues involving children;
- avoid programming and publication of images which intrude upon the media space of children with information which is damaging to them;
- avoid the use of stereotypes and sensational presentation to promote journalistic material involving children;
- consider carefully the consequences of publication of any material concerning children and shall minimise harm to children;
- guard against visually or otherwise identifying children unless it is demonstrably in the public interest;
- give children, where possible, the right of access to media to express their own opinions without inducement of any kind;
- ensure independent verification of information provided by children and take special care to ensure that verification takes place without putting child informants at risk;
- avoid the use of sexualised images of children;
- use fair, open and straight forward methods for obtaining pictures and, where possible, obtain them with the knowledge and consent of children or a responsible adult, guardian or carer;
- verify the credentials of any organisation purporting to speak for or to represent the interests of children;
- not make payment to children for material involving the welfare of children or to parents or guardians of children unless it is demonstrably in the interest of the child.

Journalists should put to critical examination the reports submitted and the claims made by Governments on implementation of the UN Convention on the Rights of the Child in their respective countries.

Media should not consider and report the conditions of children only as events but should continuously report the process likely to lead or leading to the occurrence of these events.

#### **4c. Guidelines for reporting suicide**

*Produced by MediaWise in association with 23 suicide prevention & mental health agencies, the NUJ & the IFJ.*

##### **Sensitive coverage saves lives:**

- consider the feelings of relatives
- avoid detailed descriptions of suicide methods
- acknowledge the complexities of suicidal behaviour
- provide information about where help and advice can be found
- acknowledge that sudden death creates problems for family and friends

##### **Avoid sensational headlines, images and language**

In the aftermath of a suicide, relatives are especially vulnerable. They may feel anger, despair, guilt, incomprehension or shame. Publicity makes the situation worse, particularly for children. Consult with immediate family before publishing material that may not have been in the public domain. Some may welcome sympathetic media interest especially if a suicide occurs in unusual circumstances, but avoid unnecessary intrusion into grief and family privacy.

##### **Publicising details of suicide methods can encourage imitation**

It may be relevant to indicate how a person has died, but providing too much detail may encourage others to try these methods. Explicit descriptions can also cause additional distress to relatives and friends of the deceased, especially children.

##### **Avoid speculation, especially about 'celebrity' suicides**

Prominent figures are entitled to privacy, even if they kill themselves. Beware of gossip and rumours. Always check your sources and consult with relatives before publishing speculative comment that may be unfounded, untrue or hurtful to survivors.

##### **Suicide is a complex issue, often linked to mental illness**

It is neither helpful nor accurate to suggest that suicide occurs as a result of a single factor. Often there will be history of forms of mental illness like depression, and this should be acknowledged. Avoid giving the impression that suicide is a simple 'solution'.

##### **Consider context – suicides in institutions deserve investigation**

When people kill themselves while in the care of the authorities – in hospital, in police custody, in prison, or in other institutions, their deaths may raise important questions about levels of supervision and care. The public interest is best served if suspicions are investigated, and lessons learned that may prevent recurrences.

##### **Challenge 'myths' about suicide**

Avoid perpetuating popular misconceptions - like 'those who threaten suicide are unlikely to do it' or 'if someone wants to kill themselves, nothing will stop them'. Our job is to report the facts and to try to explain the phenomenon, the circumstances and the wider issues.

**Censorship or misinformation about suicide is unhelpful**

Attitudes towards suicide vary from culture to culture, but media professionals should not seek to hide the facts. It is more important for the public to be aware of the phenomenon than to be ignorant of the warning signs or where to go for help to prevent suicide. Newsrooms should encourage debate among staff, and develop their own policies on suicide coverage.

**Put people in touch with suicide prevention agencies**

If a suicide story merits coverage there should be space or time to let people know where they can get help if the issues affect them. Newsrooms should ensure that they have up-to-date contact details of support organisations that can provide advice or counselling.

**Journalists are vulnerable too — support colleagues**

Working in the media involves stress, competition and unusual challenges, in addition to the pressures individuals face in their private lives. A willingness to share concerns and provide support should be a feature of professional relationships in the workplace, especially when colleagues experience emotional difficulties.

## **APPENDIX 5:    Compiling a complaint about a printed article**

### **A.     HANDLING CALLS FROM POTENTIAL COMPLAINANTS**

1.    It is vital to remain calm and sympathetic when dealing with potential complainants; always give them the benefit of the doubt in the first instance.
2.    Give your own name, offer the assurance that any information revealed in the conversation will remain confidential unless the caller instructs otherwise.
3.    Seek to establish to whom you are talking from the outset. Some complainants will be reticent about revealing full personal details in a first conversation but ask for a full name (check spellings) and phone number (in case the call is interrupted). If possible also get a postal address.
4.    Always allow the potential complainant to express themselves as fully as possible during the initial interview – being a good listener is crucial. Intervene occasionally to check specific details (including the name and date of the publication/s) and to clarify points that you do not understand.
5.    Point out at a convenient moment that it MAY be difficult to proceed without being able to see the article complained about. Ask if they have a copy and can send a photocopy or scan and email a copy.
6.    During the conversation, if you have access to the Internet, see if you can identify an online version of the article.
7.    See if you can identify flaws in the caller's 'case'. For example: are they reading into an article an inference that may not be borne out by the words on the page ("They are calling me a prostitute!" Does the story explicitly state that the person is selling sexual services?)
8.    Do not ASSUME that everything you are being told is correct, unless you can obtain convincing evidence. Ask challenging questions.
9.    There are many complaints about **the reporting of court cases**. Explain that
  - a publication covering a court case is OBLIGED to report what was said ACCURATELY;
  - words used by witnesses and court officials are PRIVILEGED - they are free to say whatever they like;
  - publications are NOT obliged to cover every aspect of both prosecution and defence cases (a newspaper may report allegations made by one side but may not be present when rebuttals are offered)
10.   The essential question to keep in mind: Is there anything about any aspect of this article (including the circumstances under which it was produced) that suggests a breach of any or several Clauses in the Editors' Code of

Conduct [www.pcc.org.uk/cop/practice.html](http://www.pcc.org.uk/cop/practice.html) policed by the Press Complaints Commission?

B. WHAT NEXT?

1. Ask the complainant to supply, if possible, any EVIDENCE supporting claims about inaccuracies in the story. Explain that any personal information (eg. health details) may not need to be released to the PCC or the newspaper, but it is essential that those assisting with the complaint are sure of their facts.
2. If possible encourage the complainants to make their own complaints, and offer advice on drafting.
3. Make sure the complainant copies you in on their letter and any responses they receive, so that you are in a position to advise on further action.

C. COMPILING THE COMPLAINT

1. It is vital to remain polite and dispassionate when compiling a complaint. Although it is an act of advocacy you are often reliant entirely upon the claims made by a complainant, over against the claims made in the article, and need to keep open lines of communication with the regulator/editor.
2. Carefully identify the article by headline, author and when and where it was published (enclose a copy where possible).
3. Set out details of the complaint as per the relevant Clause of the Editors' Code, identifying clearly any incorrect facts or assumptions and indicate where you have/there is evidence to support the complainant's position.
4. Detail any incidents that have resulted from publication of the article, especially abuse, negative reactions from neighbours/friends or criminal behaviour such as violence. Mention if these have been reported to the police.
5. Include some of the feelings expressed by complainants in order to stress the **significance** of the errors/misbehaviour to their lives.
6. Include reference (and evidence) about the behaviour of the journalists (Did they identify themselves? Did they appear to have access to private records? Did they refuse to leave when asked?)
7. Where possible encourage the complainant to sign and send in the letter, but if s/he is unwilling to, ask for a signed note indicating that you have been asked to write in their behalf. (The PCC will sometimes ask for this evidence).

8. Carefully examine replies – look for weaknesses in counter arguments, especially lack of evidence (eg. if the complaint is about misrepresentation and interviews have been taped, ask for a copy of the tapes and complete transcripts). Do not accept bluster.
9. Be brutally honest about advising on the next step. Do not prolong the process if it is a 'hopeless case'. If it is clear that the complaint no longer has substance, say so.
10. The newspaper/PCC response may open up new avenues of enquiry. Explain these clearly to the complainants and be sure you have their consent to develop the argument along lines they make not originally have contemplated.

D. RESOLUTION

1. If what you consider to be a reasonable offer of redress is made, explain this to the complainant.
2. Assist in the drafting or redrafting of any text that a newspaper offers to publish by way of apology or correction.
3. However if they decide to continue, either agree to pursue it on their terms or politely suggest that they must 'take it from here'. Remind the complainant that your ability to act for other people may be hindered if continued pursuit of their claim might damage your credibility.
4. If you consider that the offer is inappropriate or that the complainant should appeal or go public about the decision, explain how that might be done.
5. Also consider what other action might be appropriate to highlight any issues raised by the particular case.

## **Journalism Codes of Conduct**

*Position paper by Mike Jempson  
originally prepared for PressWise in 2004,  
revised for MediaWise in 2012*

### **Why does journalism need a code of ethics?**

There are three essential 'players' in the 'game' of mass communications:

- owners of media and their editors;
- journalists and other media professionals;
- the public on the receiving end.

For each 'stakeholder' the code of conduct has a different but linked value:

- For **media owners and editors** a code of conduct is a protection against criticism and legal action, and provides a basic guarantee about the credibility of their output. At its most basic it is a form of quality control underpinning the commercial value of their products, by reminding (or instructing) staff that the law of the land applies to their conduct, and that they must abide by the common decencies of human interaction.
- For **journalists** a Code of Conduct provides a touchstone against which their output and activities can be judged by others, as well guidance for them about acceptable methods of gathering and presenting information.
- For **the public** the Code provides a guarantee that the material they receive is a reasonable approximation of the truth, based on information gathered fairly and thoroughly checked by those who operate in their name.

### **The law and the State**

As citizens, media professionals are subject to the laws of the land, which may themselves place limitations upon their activities. Of course the State may also have its own reasons for wishing to impose further restrictions upon the conduct of journalists – in effect licensing them to operate only if they comply with the wishes of the government. Such an imposition should be unacceptable to journalists who value their independence and regard themselves as the eyes and ears of the general public rather than puppets of a power elite.

It is always worth remembering that Governments often use the excuse of 'media misbehaviour' to justify the imposition of controls on press freedom – which is perhaps one of the strongest reasons why it is vital that the practice of journalism should be 'self-regulated' under a system that is both transparent and generally accepted and understood within the media.

In devising a Code of Conduct it is important to consider the needs of all three 'stakeholders', since trust is at the heart of the compact between journalists (and mass media products) and the public. For a newspaper or news/current affairs programme to have any validity, it is vital that citizens who rely upon the mass



media for information have good reason to believe what they receive. Valid news is not propaganda or rumour, it is information that has been independently gathered and checked.

Codes of Conduct are a form of quality assurance – and accountability. While the cultural norms of a society may themselves exert an influence on both the law and the practice of journalism (in relation to sexually explicit material, for instance, or blasphemy), at the heart of such a Code should be the notion of 'media freedom'.

Media freedom is NOT about allowing those who can afford to own media outlets, or who work as journalists, to do what they wish (to make money or obtain political advantage); it is about guaranteeing the public the **right** to receive and communicate information and ideas. As The PressWise Trust puts it: 'Press freedom is a responsibility exercised by journalists on behalf of the public'.

Under self-regulation a Code of Conduct must acknowledge the role of journalists in defending this right and guarantee proper respect for verification and the rights of others.

### **What should be in such a Code?**

Too comprehensive or prescriptive a Code may inhibit freedom of expression, as well as journalistic investigation. Too skeletal or exhortative a Code could allow so much room for interpretation that it would be almost unenforceable.

To be effective a Code needs to lay down basic principles against which journalists are willing for their behaviour and output to be judged. For instance, while journalists have a right to their own opinions, it is an abuse of their position to promote their personal views by ignoring information with which they do not agree. Comment and analysis of news is a legitimate and desirable means by which varieties of opinion are both shared and encouraged however, for the benefit of the receivers, a distinction has to be drawn between the presentation of news and information, and comment upon or interpretation of those events.

Any form of 'regulation' provides a system of accountability. Central to this notion is that the 'rules' have an impact on practice – either by guaranteeing compliance, or by ensuring that breaches are swiftly remedied.

Media self-regulation is a special form of accountability since it aims to reassure the public that media professionals themselves can be trusted to put matters right when things go wrong – without recourse to law – in order to defend the public's right to a free and independent media. Self-regulation implies that practitioners make and apply their own rules, but for the media it is vital to take into account the needs and expectations of the public they serve.

The public are rarely canvassed for their views, but some helpful principles emerged from a three-year consultation between media professionals and

members of the public, conducted recently by the Committee of Concerned Journalists in the US:

- Journalism's first obligation is to the truth.
- Its first loyalty is to citizens.
- Its essence is the discipline of verification.
- Its practitioners must maintain an independence from those they cover.
- It must serve as an independent monitor of power.
- It must provide a forum for public criticism and compromise.
- It must strive to be significant, interesting and relevant.
- It must keep the news comprehensive and proportionate.
- Its practitioners must be allowed to exercise their personal conscience.

For a Code to have meaning it has to be accepted and understood by both public and practitioners alike. The content and rationale of the Code has to be in a language that is accessible to journalists, their employers and the public, setting out reasonable expectations of 'quality journalism'. It should not be regarded as a legal document, but as a clear 'statement of intent' which acknowledges the fallibility of journalists and media organisations by telling people 'This is what we shall strive to attain'.

The starting point has to be practitioners themselves, and most would agree that such a Code should incorporate reference to:

- Upholding the principles of media freedom, the right of the public to access to information, and the right of journalists to exercise their personal conscience.
- Accuracy and corrections.
- Distinguishing between facts and comment.
- Respect for personal privacy especially at times of ill-health or bereavement.
- Protection of children, victims of crime, and other vulnerable groups.
- Protection of sources.
- Avoidance of prejudice and discrimination.
- Avoidance of inducements and conflicts of interest.

### **The efficacy of guidance on ethical behaviour**

It is difficult to assess the impact of such codes upon journalists' behaviour on a day to day basis. Most working journalists would be able to recite a litany of key dos and don'ts even if they had not had recent sight of a formal code – they are inculcated through newsroom practice, the occasional crisis moment, and the 'professional' journalist's own sense of decency and decorum. As interim results from a quota sample of journalists across 12 European and 2 Arab states have revealed most journalists rely more heavily on their own consciences than on any formal systems of regulation, and recognise a strong sense of 'duty' to their publics.

An earlier survey of UK journalists conducted by MediaWise in 2006 UK to test the efficacy of guidelines about reporting suicide produced some revealing results. Those who had personal experience suicidal behaviour (among family.

friend or colleagues) were more likely to be conscious of the need for special care to be taken about how such matters should be covered. Those who had been advised during training about the sensitivities surrounding suicide coverage, and those who had discussed the issue with colleagues in their new newsrooms, were more likely to rely upon guidelines for advice.

In short, awareness of the rationale for and existence of Codes would seem to be an influential in terms of behaviour. This strengthens the argument for a greater emphasis on ethics within vocational training, and in newsroom debate, as well as encouraging the inclusion in contracts of employment of an acknowledgement of the need for ethical behaviour..

### **Applying the Code (in the Public Interest)**

There will always be 'exceptions to the rule', of course, and while accuracy should remain sacrosanct for all media professionals, it is helpful to have guidelines about those occasions where the 'greater good' (the public's right to know) - sometimes called 'an over-riding public interest' - might justify deviations from a Code.

In the UK, for example, freedom of expression itself is regarded as in 'the public interest' (as distinct from the 'interests of the public', which might include a fascination with trivia).

Both the newspaper industry (PressBof/Press Complaints Commission) and the National Union of Journalists have insisted that only 'exceptional' circumstances justify breaches of the code where children are involved, but acknowledge that deviations from their (similar but different) Codes may be justified if the motive is to:

- detect or expose crime or serious misdemeanours.
- protect public health and safety.
- prevent the public from being misled by a statement or action of an individual or organisation.

To this long established formula an additional consideration might usefully be added –

- the protection of an open democratic society.

Having determined the terms of the Code, through consultation, the task of ensuring that media practitioners properly understand it, and agree to abide by it, remains. Making it a compulsory part of journalism training courses is relatively simple; introducing it among those already active in the trade is more difficult.

Journalists prefer empirical evidence to mere theory, and they will listen to colleagues rather than 'external' agencies. One way of 'embedding' the Code is to expose them to the actual or likely consequences of unethical working practices and 'engage' them in the prevention of injustice, by publicising case studies and devising succinct training modules that can be delivered 'in-house' or through their own organisations.

## **Making self-regulation work**

To be effective there has to be some means by which the Code is 'supervised' – whether by journalistic organisations or by a non-state body which has the confidence of both media and the public – and through which some form of redress can be obtained when breaches occur.

Admitting to mistakes is always difficult, especially in an industry whose function includes furnishing the public with reliable information about events and issues that affect their lives. But publicly acknowledging failure, setting the record straight, and seeking to ensure that such errors will not recur is one of the most effective ways of strengthening trust between the public and the media.

Devising Codes and promoting them is always problematic, but agreeing systems of 'enforcement' is even more difficult. However it is pointless having, and publicising, a Code if mechanisms do not exist to allow all-comers to draw attention to breaches, and even to seek redress – in the form at least of prompt and prominent corrections, apologies, or the right to reply.

But that is another story...