



House of Commons
Culture, Media and Sport
Committee

**Press standards,
privacy and libel: Press
Complaints
Commission's
Response to the
Committee's Second
Report of Session
2009–10**

1st Special Report of Session 2009–10

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The Culture, Media and Sport Committee

The Culture, Media and Sport Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Culture, Media and Sport and its associated public bodies.

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Committee staff

The current staff of the Committee are Tracey Garratty (Clerk), Elizabeth Bradshaw (Inquiry Manager), Jackie Recardo (Senior Committee Assistant), Ronnie Jefferson (Committee Assistant) and Laura Humble (Media Officer).

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First Special Report

On 24 February 2010, the Culture, Media and Sport Committee published its Second Report of Session 2009–10, *Press standards, privacy and libel*.¹ On 24 March 2010 the Committee received from the Press Complaints Commission a response to its Report. This response is published below as an Appendix.

Appendix: Press Complaints Commission's response

I have been asked by the board of the Press Complaints Commission to write to you in response to the Select Committee's recent report.

The Commission welcomes the level of consideration which the Select Committee has applied to its practices. It is glad to see its fundamental recognition that "self-regulation of the press is greatly preferable to statutory regulation, and should continue". It is grateful that the report has also publicly commended the staff of the PCC, and acknowledged that the PCC "does a great deal of valuable work both in preventing breaches of the Code and in addressing complaints". The Select Committee has accepted that "many people have benefited from a free and discreet service in exactly the way the PCC's founders envisaged". This can provide real encouragement to those who work at the PCC.

It is also notable that the Select Committee has again ruled out the introduction of a privacy law, which is something that the Commission wishes strongly to endorse. As the Commission has made publicly clear, it currently handles hundreds of privacy complaints every year, and represents the preferred route of many people who would otherwise seek to go to court.

The Commission itself, prior to the reporting of the Select Committee, has accepted that it should be seeking to improve its effectiveness and its accountability, and to clarify its working independence from the newspaper and magazine industry. That is why the incoming Chairman instituted a Governance Review into the PCC systems, which is yet to report. The Governance Review will consider all of the relevant recommendations made by the Select Committee, before reporting to the Commission later this year.

It should, therefore, be clear that the Commission welcomes constructive criticism, and will consider the recommendations made by the Select Committee in that light. The Commission accepts that it must be better at examining itself and how it works and the Governance Review will help to achieve that. It is important, however, that the PCC does not prejudice the outcome of the Governance Review and so the Commission is not yet in a position to respond to all of the Select Committee's views and recommendations. Governance Review members, as you know, are currently arranging to speak with representatives of the Select Committee.

¹ HC 362-I & II, Session 2009–10

I should also make clear that proposed changes to the Code are a matter not for the Commission but for the Editors' Code of Practice Committee, which is a separate body. Additionally, some of the Select Committee's recommendations relate to the remit and sanctions of the PCC, which are matters for the industry to consider. The PCC performs its responsibilities independently, but the framework in which it operates – as with all self-regulatory mechanisms – must be agreed by the industry itself. We understand the industry will respond separately to the Select Committee's report.

In this response I will, therefore, seek to provide the Commission's thoughts on the outstanding issues on which it can comment. The Commission does not accept all of the conclusions drawn by the report and is concerned that some of the recommendations seem to be based on the remarks of partisan witnesses merely taken at face value. The Select Committee has not fully tested, or even consulted on, all of its practical suggestions. This is disappointing.

The Commission believes that the Select Committee has failed to acknowledge the current level of proactive work undertaken by the PCC, and the extent to which the PCC is already concerned with the raising of standards. Last year, the Commission issued over 1600 rulings, and negotiated over 600 settlements, which demonstrated an effective record of holding editors to account. Recent PCC rulings have set clear standards on, for example, the reporting of suicide, pregnancy, material taken from social networking sites, transgender issues, the prominence of apologies and more. The Commission also acts several times a week to help prevent media harassment, by communicating concerns from affected parties – including some of the most vulnerable people in the community – across the industry. This is a bespoke service, which we believe could not be replicated by any other system.

In terms of proactivity, the Select Committee recommends that the PCC should engage in “dedicated and compulsory training of coroners and police family liaison officers about ways in which the PCC can help and...providing them with standard leaflets which can be offered to those with whom they come into contact”. The Commission has already informed the Select Committee of its work in this area, which includes wide-ranging contact with (and training of) representatives of such bodies, as well as others. It is not within the power of the PCC to make training in such sectors compulsory, but it welcomes the Select Committee's encouragement for external bodies to take up the Commission's regular offers of training and assistance.

The Commission also regularly seeks to contact potential complainants, to help individuals shape their concerns effectively and to ensure that those at the centre of news stories are aware of our services. In the Commission's view, the work it did in Bridgend (even if it could have done more), and more generally in the field of suicide reporting, represents a positive example of its proactive approach, which was under-valued by the Select Committee. That said, the Commission welcomes the stimulus from the Select Committee for it to improve in this area and become even more proactive. It agrees that Commissioners should prompt the PCC's consideration of specific cases, where it is in the public interest. This has been the practice for some years, but will now be formalised as a matter of policy for the Commission.

Of course, the test for the Commission at all times must be whether any proposed improvement can be practically achieved. For example, it is easy to assert that the Commission should issue “public warnings” without receiving a complaint, or any contact from a potential complainant. In practice, the Commission must pay due regard to those directly affected by the matter under complaint, and indeed will necessarily rely on them for their views on the subject of the article. The credibility of the Press Council (which the PCC was brought in to replace) was fatally undermined by its willingness to comment on issues without information from those concerned.

It is in this context that the PCC’s actions in regard to the McCann case must be viewed. It would not have been possible, contrary to the Select Committee’s assertions, for the Commission to have come to an independent view in May 2007 on questions of accuracy or impropriety in the reporting of the McCann case. The PCC would clearly have needed information from those at the centre of the story to do so. At that point, the Commission had already sought to engage with the McCanns and make itself available to offer all necessary assistance. The McCanns publicly thanked the PCC for its work in dealing with harassment and protecting the privacy of their children. They elected, as was their right, to pursue other matters through the courts.

However, the Commission is committed to learning lessons from a case that led to a significant amount of public concern about press standards. It does accept that it could have done more to direct the McCanns’ concerns about reporting, and to channel them into more formal complaints. It will take this on board for the future.

The Commission also wished to comment on the Select Committee’s remarks on phone message hacking and the PCC’s work in this area. It believes that your report mischaracterises what the PCC actually sought to do, which was not to duplicate the police investigation but to seek to ensure a change in practice at the *News of the World*, as well as to confirm best practice within the industry as a whole. The Select Committee acknowledges that standards have risen in this area, and the PCC has played a part in that.

That said, the Commission will consider internally whether it could have clarified its intent and role better, and has taken due note of how its work has been received in some quarters.

Finally on this subject, the Commission wishes to take this opportunity to correct the record. Your report says that the Chairman of the PCC issued a statement in November 2009 which may have suggested that Gordon Taylor’s lawyer, Mr Lewis, misled the Committee. This is not the case, as the PCC made publicly clear at the time. Baroness Buscombe has never suggested – and does not believe – that Mr Lewis misled the Select Committee and her statement, which made no reference to Mr Lewis, was not intended as a criticism of him or the evidence which he gave to the Select Committee. Baroness Buscombe regrets that her statement may have been misunderstood and that this has been of concern to Mr Lewis. Baroness Buscombe and the Commission therefore wish to make the position entirely clear.

Turning to more general matters, the Commission believes that its proper role is to uphold press standards, as defined by the Code of Practice, by providing the public with an effective means of redress by which editors can be held to account. The Select Committee supports this concept. However, the Commission cannot – and does not wish to – seek to

uphold general standards relating to taste and offence. This is for good reason. It would be unacceptable for the Commission unduly to restrict freedom of expression of the press by imposing its opinions on the overall suitability of material, unless there are grounds to do so under the Code. The Code does not include matters of taste or offence and the Commission would not suggest to the Code Committee that it should.

Currently, the Commission does not accept that it is possible – or appropriate – to monitor widely for compliance with the Code, especially given the vast amount of information that is now being published on and offline across the newspaper and magazine industry. At the heart of the Code is the protection of the individual and the Commission believes a model of efficient and transparent complaints handling to be more appropriate to a digital age. The impact of convergence, and online reporting, is something the PCC will be actively assessing in future.

The success of self-regulation is not only based on the fact that the industry takes it seriously and responds to its requirements, but also that the public have access to it and confidence in it. The Commission accepts the Select Committee's view that it has, in the past, failed to present its complaints information clearly enough. It is already in the process of improving how it communicates in this area. The Commission is committed to releasing new advertising material, both in print and online, so that accessibility to its services can increase. This will build credibility, as it is notable that most of those who actually use the PCC – in contrast to certain individuals who merely observe at a distance – value the service it offers.

The Commission recognises the importance the Select Committee has attached to the prominence of corrections, apologies and PCC adjudications. It agrees with the Select Committee that publications should consult with the complainant and PCC about prominence prior to publication. In practice, this commonly takes place, but the Commission welcomes the suggestion that the Code should refer to this.

It is worth pointing out that recent figures show that over 85% of PCC-negotiated corrections and apologies appear no further back than the original transgression, or in a designated corrections column. The PCC has specifically upheld complaints against newspapers for failing to publish corrections with due prominence. This goes further than the Select Committee's recommendation that "non-compliance should be noted as part of the published text of the correction or apology". The Commission will further prioritise the issue of prominence in the future.

At present, the Commission believes its powers are effective, and can point to a culture in which its sanctions have real impact and led last year to a record number of settled complaints. However, it welcomes the fact that the issue of sanctions can be re-examined, and will be talking to the industry on this point. The Commission does want to take this opportunity seriously to question whether the suspension of printing of an offending publication – even if that were practicable – could ever be proportionate and appropriate in a democratic society. As far as the Commission can determine, no other analogous body in the civilised world would employ such a sanction.

In response to other recommendations, the Commission welcomes the notion that there might be external incentives to encourage subscription to the system of self-regulation and

looks forward to hearing suggestions in this area. It also accepts the idea that adherence to the Code should be written into the contract of journalists for all publications. This practice is already widespread, but the Chairman of the Commission will be writing to relevant figures on this basis shortly to encourage universal take-up.

The Commission acknowledges the specific context and range of the Select Committee's report, which necessarily used a limited period of time and a few individual cases as a basis for analysis of the PCC. It is unsurprising that the Commission would have an alternative perspective on some issues, bearing in mind its ability to rely on an archive of thousands of cases and the experience of its varied Commissioners. But the Commission does not wish to lose sight of the shared commitment to self-regulation, embodied in the report, and wants to make clear that it is willing to participate in dialogue with the Select Committee, and the newspaper and magazine industry, to continue its development for the future.

Stephen Abell
24 March 2010