Dear Press Recognition Panel,

I am writing as a member of the public but my views on the press and press regulation owe much to the fact that I recently retired from my job as a Charity CEO after some forty years spent working with young people in trouble and young victims of crime. (The two groups are by no means mutually exclusive.) I also worked closely with the agencies (eg Police, Courts, Childrens Services Departments) who work with those young people and with the various government departments and agencies (MoJ, Home Office, DoH, Youth Justice Board and the devolved administrations in Scotland and Wales) responsible for justice and / or the welfare of children and young people.

Crimes committed by and / or against children and young people are of considerable interest to the press, whose coverage is, in turn, hugely influential upon both public opinion and official policy. It is therefore essential that such coverage is both fair and accurate – and generally, I think, it is (however much I might nonetheless disagree with it). However, there are occasions when the press quite simply gets it wrong – and when that happens, great damage can be done, to individuals and to vulnerable young people in general. Effective regulation is essential in discouraging and challenging irresponsible reporting and commentary, which is why I am a keen supporter of the Royal Charter and have a longstanding interest in ensuring that the Leveson Report is delivered fully and effectively.

I have considered the consultation and read Hacked Off's submission to the PRP consultation, a copy of which is here. I am writing firstly to say that I back Hacked Off's submission, prepared with the input of victims of press abuse. I hope you will take note of this. I feel particularly strongly that effective arbitration is crucial to fair regulation and I would like to draw your attention to the views of Hacked Off (which I share and support wholeheartedly) as to how the PRP should apply the Charter criteria in respect of this matter (see below).

Arbitration

Criterion 22 is:

> *The Board should provide an arbitral process for civil legal claims against subscribers which:*
>
> a) *complies with the Arbitration Act 1996 or the Arbitration (Scotland) Act 2010 (as appropriate);*
>
> b) *provides suitable powers for the arbitrator to ensure the process operates fairly and quickly, and on an inquisitorial basis (so far as possible);*
>
> c) *contains transparent arrangements for claims to be struck out, for legitimate reasons (including on frivolous or vexatious grounds);*
>
> d) *directs appropriate pre-publication matters to the courts;*

e) *operates under the principle that arbitration should be free for complainants to use (footnote 1);*

f) *ensures that the parties should each bear their own costs or expenses, subject to a successful complainant's costs or expenses being recoverable (having regard to section 60 (footnote 2) of the 1996 Act or Rule 63 of the Scottish Arbitration Rules[3] and any applicable caps on recoverable costs or expenses); and overall, is inexpensive for all parties*

[1] The principle that arbitration should be free does not preclude the charging of a small administration fee, provided that:

(a) *the fee is determined by the Regulator and approved by the Board of the Recognition Panel; and*

the fee is used for the purpose of defraying the cost of the initial assessment of an application and not for meeting the costs of determining an application (including the costs of the arbitration).

Because of commonly-held misconceptions about how the arbitration scheme applies, the PRP, for the avoidance of doubt, will need to make the following clear in brief guidance (even though one might think this was obvious):

- *All subscribers must be members of the arbitration scheme*
- *Subscribers should not be permitted to "pick and choose" which cases to take to arbitration.*

In respect of "possible evidence" for the above, contracts will need to demonstrate that membership is conditional on membership of the arbitration scheme and that there is no power for a subscriber to elect not to use arbitration in any individual case (other than by agreement with the claimant or by a decision of the arbitrator)

- *the opt-out of arbitration scheme membership for subscribers who publish only on a local or regional basis on Schedule 2 paras 6 & 7 is only available after a cyclical review.*

- *Instead of saying "The administration fee in 22 (e) footnote is small and genuinely related to the costs of administration" this "indicator" (which is clearly only for the avoidance of doubt) should say "*Any administration fee in 22 (e) footnote is small and genuinely related to the costs of initial assessment of an application and not for meeting the costs of determining an application (including the costs of the arbitration)

In relation to this the following possible evidence should be included "Information as to how any administration fee will be calculated with regard to no more than cost recovery of the 'sifting' process".

Guidance needed

In respect of 22 (f) arbitration is only going to work if there is “equality of arms” for legal representation. Therefore, the PRP needs to be clear that any cap on a claimant’s recoverable costs and expenses must be set at a fair and reasonable level and that the PRP will require this to be determined in a way which has regard to the need to achieve an equality of arms in the relevant arbitration.

In respect of “possible evidence” that whether the regulator or the arbitrator (or a combination of both) is responsible for setting a cap on the claimants’ recoverable costs or expenses, there will need to be the existence of clear rules which require those responsible for setting the cap it to take into account the circumstances of the claim and of the arbitration when determining how the need to achieve equality of arms is to be achieved should be set out.

Thank you for inviting comments and reading my submission.

Yours sincerely

Barry Anderson