

## PRESS RECOGNITIONAL PANEL

### Minutes of the meeting of the Board with Hacked Off held on 9 March 2015 at 107-111 Fleet Street, London EC4A 2AB

**Present:** Dr David Wolfe QC (Chair of the Panel), Emma Gilpin-Jacobs and Carolyn Regan

**Visitors:** Joan Smith, Executive Director, Hacked Off  
Brian Cathcart, Founding Director, Hacked Off

**In attendance:** Susie Uppal (Executive Director), Holly Perry (Interim Governance Manager) (taking the note)

#### **Welcome and introductions**

1. The Chair welcomed Joan Smith and Brian Cathcart to the meeting.
2. Following introductions, the Chair set out the planned format for the meeting, which was expected to last around an hour. It was hoped that this would allow sufficient time for discussion, but he invited Hacked Off to send any further thoughts in writing after the meeting.
3. In terms of timescales, the Panel would shortly start preparing documentation setting out proposals for how it intended to go about the task of receiving and considering applications for recognition. The Panel then expected (later in the spring) to consult widely on those proposals before publishing them in final form later in the summer of 2015.
4. In addition to any points the visitors wished to raise, the Chair emphasised that the Panel would very much welcome comments – as part of the discussions, or in writing after the meeting – on the following points<sup>1</sup>:
  - the **general approach** the Panel should adopt to the recognition criteria and process;
  - how the Panel should approach the areas where the criteria for recognition were **least specific** (for example: public interest, appropriate internal governance processes);
  - how the Panel should give effect to its duty under paragraph 1 of Schedule 2 of the Charter to apply to the criteria concepts of: effectiveness, fairness and objectivity of standards; independence and transparency of

---

<sup>1</sup> The Panel wrote to Hacked Off setting out the areas for discussion ahead of the meeting; details of the points covered in discussions with all stakeholders are published on the Panel's website: <http://www.pressrecognitionpanel.org.uk/documents/Letter%20to%20attendees.pdf>

enforcement and compliance, credible powers; and remedies, reliable funding and effective accountability;

- what **evidence** the Panel should require in support of applications;
- any relevant examples of **best practice** or other learning, including in those areas, of which you are aware;
- on any particular **dangers**, including in any of those areas that visitors' think the Panel should be aware of;
- how best the Panel should **seek the views of the public** and other interested persons on our draft proposals;
- whether recognition applications might need to include, or could be said to include, information which was or might be **confidential**; and if so, how the Panel should respond to that; and
- whether the Panel should seek and take into account **public comment** on recognition applications which we receive and, if so, how best the Panel should go about doing that.

5. The expectation was that the meeting would provide a forum for free and frank exchange of views. The meetings was being held in private, however a note of the key points discussed would be agreed by all participants for publication on the Panel's website.

## **Discussions**

### *Timescales*

6. JS explained that Hacked Off was founded in summer 2011, and quickly applied pressure for a full scale public inquiry into the conduct of the press. The Leveson inquiry had followed. In this four years, it was Hacked Off's view that the behaviour of the press had not markedly changed. Hacked Off was still coming across *prima facie* cases of breaches of the Editors' Code, for example failures to adequately protect children. This was of significant concern to Hacked Off. The passage of time was causing significant frustration to both new and old victims of press abuse. Press abuse was not a victimless crime, and it was unclear to Hacked Off why the pace of developments was so slow.
7. BC added that the Leveson inquiry had gathered extensive evidence and had significant legitimacy, and Leveson's report had been extensive; it therefore seemed unnecessary to spend further time consulting on the recognition process. Leveson had not left a blank sheet and Hacked Off considered that the timescales the Press Recognition Panel was working to could be substantially accelerated. Hacked Off's impatience related to the compelling need for change.

8. DW responded that the Panel too was concerned about timescales, however it did not wish to set an artificial deadline. There was a need to balance time and speed with an appropriate, lawful process. If it was perceived that the Panel was slowing things down – and if there was a clear indication that a regulator was ready to apply for recognition, the Panel would consider whether to speed up however the Panel was not getting a sense that it was currently or imminently slowing things down, and this was an important factor to take into consideration in relation to timescales.
10. BC expressed a similar level of impatience in relation to politicians and explained that there had been evidence of delaying tactics at the point when the Royal Charter had been sealed. In Hacked Off's view, pressure needed to be applied to ensure the relevant Statutory Instrument was laid at the earliest possible opportunity.
11. DW explained that the Panel's role was clearly defined in the Royal Charter, and went beyond an audit function. The Panel had reporting responsibilities which would involve it in providing public information and education about the operation of the Charter and the surrounding mechanisms. Its role was not, however, to accelerate the provisions of the Crime and Courts Act. The Panel would work throughout the restricted period leading up to the General Election and progress as quickly as possible.

*Role of the Press Recognition Panel and timing of annual report*

12. BC expressed concerns about the Panel's role and whether there were forces at play which conspired to make its role redundant. Publication of the Panel's annual report on the state of recognition of the press needed to be very carefully timed. According to the Royal Charter, this report would be published one year from the point that the Panel declared itself 'open for business' and able to take receipt of applications for recognition. Certain times of the year needed to be avoided in relation to publication – including summer recess, party conference recess, and any periods that were particularly active politically for example, local elections, London Mayoral elections, European elections etc. Unless political elements were thought through, the Panel would find it difficult to achieve any traction.
13. DW responded that the Panel would think hard about appropriate timing as part of the overall process of trying to ensure that it was successful in achieving its overarching aims and objectives as set out in the Royal Charter.

*Public understanding and consultation*

14. JS argued that there was strong evidence that the public broadly supported the principle of press regulation and that therefore it was not necessary to engage the public in lengthy and intricate consultation on the recognition process. DW responded that the intention was to undertake consultation with informed members of the public, journalists, academics etc over a six to eight week period, and request the assistance of university media schools in hosting the events. BC undertook to put the Panel in contact with some helpful organisations to assist with the consultation stage.

#### *Involvement of journalists*

15. JS argued strongly that the involvement of journalists was very important. To date, journalists had been absent in the process, including development of the Editor's Code, which had never been consulted upon. There was very little protection for journalists – there had never been a dialogue on ethics for example. DW responded that the Panel fully intended to involve journalists and would communicate with them directly; in fact, a downside of any 'short circuit' of the intended consultation would mean there would be less time for meaningful engagement of such key groups.

#### *Panel's approach*

16. EGJ explained that the Panel was passionate about achieving its aims and objectives, and had been working at a very fast pace since inception. A number of key milestones had already been achieved. Key themes for the consultation had already been discussed and agreed, a communications plan was in place, and the Panel was in the process of recruiting key staff. The Panel was clear that it had an important role to play in relation to both education and communication.
17. BC argued that nothing could be more effective than the Panel continuing to express its independence, stressing in particular that it had no role in regulating. Its sole purpose was to apply the test of whether a regulator was fit for purpose. It would be important for the Panel to make clear very clear to stakeholders what it stood for as part of the consultation process.
18. DW explained that in determining the approach to recognition, the Panel would take the criteria set out in the Royal Charter and define what was meant by them. Definitions would be key – for example, the Panel would need to consider issues around 'independence', 'complaints', 'arbitration'. It was also important for the Panel to get into the specifics – for example, to seek views on what an appropriate complaints system might look like. One option was for the Panel to define these terms itself in isolation, however there was a strong argument for involving others and consulting on these definitions. It was also

necessary to articulate the standards expected, for example, whether the Panel would look for 'sufficient' evidence of practice, or 'good' evidence of practice in assessing applications for recognition. The Royal Charter allowed for a multiplicity of regulators, and therefore it needed to involve a wide range of views, and not develop a system in a vacuum. Hacked Off responded that while the arguments for consultation were understood, the Panel needed to bear in mind that sustained injustices were ongoing, and therefore ways to consult quickly should be adopted if at all possible.

19. BC suggested that the Crown Prosecution Service's definition of 'public interest' was helpful and that the Panel should look this up. There was also significant evidence within the Leveson report itself about the aspects of the PCC's procedures that did not work and why. The supplementary evidence in particular was worth researching.

#### *Schedule 2 of the Royal Charter*

20. BC expressed his view that the Panel ought very much to give effect to its duty under paragraph 1 of Schedule 2 of the Charter to apply to the criteria concepts set out, including of: fairness, transparency and credibility. The Panel, it was felt, ought to have the latitude to fail a regulator on the basis that the application was not made in the spirit of what was envisaged or intended by Leveson. DW noted that the Panel would be likely to look at end-to-end processes as part of its assessment of an application for recognition.
21. BC cautioned that the press would make strong arguments about the Panel infringing freedom of expression in carrying out its oversight role, and these arguments would need to be counteracted.

#### *Pitfalls*

22. In terms of dangers to be aware of, BC cautioned that the large newspaper publishers were unscrupulous, and were not sincere about protecting the public. There was a strong argument that in all dealings with such organisations the Panel needed to exercise the maximum levels of scepticism and distrust. DW responded that the Panel was not naïve and understood the context in which it operates. It will continue to engage with anyone wanting to speak to it, with offers to meet face-to-face and talk.
23. BC followed up that in relation to press standards, the public's confidence was very low. The Media Standards Trust and YouGov had conducted polls which corroborated this.

#### *Confidential information in applications and public comment on them*

24. In relation to whether applications for recognition might need to include information which was or might be confidential, BC's view was that if the regulator asked for the application or information within it to be kept confidential, this was acceptable. BC was aware that Ofcom had a confidential process, which the Panel might wish to look at.
25. In relation to public comment on applications, BC considered that as long as the process did not take too long, and if much of the dialogue could take place in advance (for example, regulators could be advised to publish information on their website before the formal application process).

### *Concluding thoughts*

26. DW invited Hacked Off to submit views and thoughts on the mechanisms to use and groups to engage with in order to ensure that the Panel heard the widest range of views. JS suggested a wide broad range of civil society groups, including traveller organisations as an example. Hacked Off committed to providing some ideas.
27. BC advised that the nature of publication now taking place outside the UK and online meant that the scope of regulation and definitions needed to be broader than 'UK based'. Hacked Off was not an expert in this field, but would be able to put the Panel in touch with relevant individuals who were.
28. BC concluded by advising the Panel to investigate the process in Ireland, perhaps be engaging with the Irish NUJ. There, the ministry of justice was responsible for the recognition process, and 3 or 4 of the large national newspapers had signed up, indicating that it was possible for the process to work.

### **Additional information**

29. The Chair concluded the session by inviting Hacked Off to submit additional information as they wished. Hacked Off agreed to provide details of networks and contacts in relation to micro publishers and 'hyper locals', and also to advise the Panel of views about threats and opportunities for regulators.

### **Closing comments**

30. The Chair thanked Hacked Off for attending and for speaking openly and frankly about issues that were of concern to them.