

PRESS RECOGNITION PANEL

Minutes of the meeting of the Panel with the National Union of Journalists, held on 26 May 2015 at 107-111 Fleet Street, London EC4A 2AB

Present:

From the National Union of Journalists

Michelle Stanistreet, General Secretary

Professor Chris Frost, Chair, NUJ Ethics Council

From the Press Recognition Panel

Dr David Wolfe QC, Chair

Harry Cayton, Board Member

Emma Gilpin-Jacobs, Board Member

Carolyn Regan, Board Member

Harry Rich, Board Member

Tim Suter, Board Member

Susie Uppal, Executive Director

Rick Borges, Regulatory Manager

Sadie East, Stakeholder and Communications

Jonathan Gorvin, Regulatory Manager

Rosalind Stevens, Regulator Manager

Holly Perry, Head of Governance (taking notes)

Welcome and introductions

1. Dr David Wolfe QC (DW) welcomed Michelle Stanistreet (MS) and Dr Frost (CF) to the meeting, and introduced his Board colleagues and executives of the Panel.
2. Following introductions, the Chair set out the planned format for the meeting, which was expected to last around an hour. This was one of a series of meetings which the Board was holding in order to seek early input to how the Panel could give life to the Royal Charter recognition criteria. To date, there had been a wide range views on many of the key issues.
3. In terms of timescales, the Panel was now finalising documentation setting out proposals for how it intended to go about the task of receiving and considering applications for recognition. The Panel expected (between 8 June and 31 July 2015) to consult widely on those proposals before publishing them in final form in the early autumn of 2015.

4. In addition to the points set out in writing by the Panel in advance of the meeting¹, 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 points²:
 - 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;
 - 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 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 attendees were aware;
 - any particular dangers;
 - how best the Panel should seek the views of the public and other interested persons on its 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 were received 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 the attendees for publication on the Panel's website.
6. DW emphasised that there would be a further opportunity for the NUJ to input to the consultation events taking place across the UK between 9 June and 14 July, or separately if necessary.

Discussions

Whistleblowing

¹ The Panel wrote to attendees 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>

7. MS indicated that whistleblowing and the reputation of journalists was a key area of concern to the NUJ and it would respond to the consultation on this point specifically. Without clear and explicit provisions about handling and process, the NUJ had little confidence that the Royal Charter criterion could be meaningfully met by regulators.
8. By way of an example, it had proven very difficult during the Leveson Inquiry to secure individuals to come forward to give evidence of cases of whistleblowing failure, even after they had left their employer. DW reassured the NUJ that the Panel's consultation would allow for confidential responses, and confidential testimonies, if necessary.
9. MS added that the points on transparency were key, and the NUJ would look over the NAO guidance that was to be referenced in the Panel's consultation document carefully. Historically, it was felt by the NUJ that evidence reported to the Press Complaints Commission was not followed up. Having rigour in the whistleblowing process in the future was key for the NUJ.
10. NUJ included a 'conscience clause' within its Code of Conduct, to which journalists signed up when they became a member. However, there was evidence that individuals 'paid with their jobs' in some cases for speaking up. The situation was particularly difficult where the responsibility rested with a single individual. DW provided assurance that the Panel would be explicit in relation to the requirements on regulators in this area.
11. HR asked NUJ colleagues whether there was learning that the Panel could look at from other systems outside the UK. CF responded that the problems related to the way that journalism was structured in the UK, and that this differed significantly from the structures in other comparable countries. For example, in the US, journalists operated in a much more independent way; in most European countries, the editor was elected from the group of journalists.
12. In CF's view, the Panel needed to make a distinction between 'whistleblowing' and the 'hotline'. The NUJ ran an ethics advice line, which CF handled personally. This line received a steady stream of calls which individuals used to seek advice. Common themes were a lack of training on ethical issues, and a fear about raising matters with the editor for a range of reasons.
13. DW clarified that the Panel would only have vires to fail a regulator on the basis of the criteria set out in the Royal Charter; it had no power to make requirements which went beyond this. TS added that running an advice line might present difficulties for a regulator if they later had to judge a complaint relating to the advice it had given. There was a risk of its discretion being fettered. CF responded that there was a distinction to be made between the

regulator having to pursue complaints, and a potential role in advice giving, for example by ensuring that the lines of demarcation were clear and there was separation in respect of the individuals handling each area of the activity. DW stated that the Panel would need to think about how this would fit with the criteria.

Data gathering

14. MS queried the likely requirements on regulators in relation to data gathering. Transparency was key, and that with clarity and data gathering, issues and trends could be identified, and lessons learned.

Advertorial and regulatory gaps

15. MS set out that the lack of separation between advertising and editorial ('advertorial') was a complicating factor, and was resulting in journalists being asked to tread a potentially dangerous path. There was a very real danger, as had been alleged at the Daily Telegraph, that editorial standards were being breached for commercial reasons. The NUJ asserted that there was evidence that the sheer weight of advertising was impacting on editorial standards and that the problem had increased significantly in the past 20 or 30 years. In the NUJ's view, the Editorial Code was particularly weak in respect of this area.
16. DW responded that the ambit of what the PRP could consider was governed by the Royal Charter. HC added that the Charter was clear that advertising was out of bounds, however, this seemed less and less clear and there were clearly a risk of regulatory gaps appearing between the ASA and the PRP.
17. MS suggested that one approach might be for the Panel to ask regulators how the Code deals with issues relating to the blurring of the line between advertising and editorial, and how the Code protects the distinction.
18. MS indicated that the NUJ had over 100 responses and detailed narratives of poor journalism – stories that had been spiked with commercial interests. DW invited the NUJ to submit such evidence as relevant as part of its consultation responses, but cautioned that the response and evidence needed to be clearly linked to the criteria in the Royal Charter.

Ad hoc reviews

19. MS asked what the trigger would be for an ad hoc review. DW responded that this area would not be dealt with in any detail in the forthcoming consultation, as the Panel intended to cover this area in the next phase of its work. A separate consultation would be issued at a later date, however the trigger and

broad threshold was likely to be non-compliance with the Royal Charter criteria. If a regulator was already recognised and such an allegation was made and substantiated, this might mean that ongoing recognition might no longer be appropriate.

Third party complaints

20. CF asked about the requirements relating to third party complaints. There were issues in relation to the limitations of the Editors Code, for example, with representative bodies wishing to bring complaints connected to discrimination. DW responded that the consultation was relatively limited in respect of third party complaints, and encouraged the NUJ to respond on this point if it felt that the Panel needed to say more.
21. MS added that this was likely to be an area on which the regulator would be tested very quickly.

Prospective regulators and date for receiving applications

22. MS asked whether any regulators had yet signalled that they were likely to apply for recognition, in view of the positive signals from IMPRESS. DW responded that the Panel expected to receive applications, including from new bodies with no members. The Panel's emphasis - in developing the guidance and process proposed in the consultation document - was to accommodate large and small regulators, new and old. Hyperlocals were a group with which the Panel had been engaging - among others - in relation to the adoption of a prospective regulator.
23. MS stated that it would be helpful to have a recognised body in place, to whom individuals, hyperlocals, smaller publishers etc. could turn to, to secure cover.
24. CF asked if the Panel could confirm when it would be 'open for business'. DW responded that an exact date was not yet known, however this would be sometime in the autumn and before the first anniversary of the Panel's inception (3 November 2015). DW added that it was likely to be challenging for a prospective regulator to apply and be recognised in time for 3 November 2015 (including for example, for reasons related to public participation - through a 'call for evidence' - in an application for recognition) but it would be possible not long after that.
25. DW clarified that the exemplary damage provisions of the Crime and Courts Act 2013 came into effect automatically on the first anniversary of the Panel's

inception. The costs shifting provisions did not come in automatically, and would be brought in by statutory instrument.

26. MS asked what the impact would be for the Panel of only one regulator applying. DW responded that this was not of concern to the Panel, though there would be the opportunity to make broader comments about regulators not applying for recognition through its annual report to Parliament.

General points

27. HC stated that the Panel had received evidence now from a number of groups about the anxious and demoralised state of the profession, and how fearful individual journalists appeared to be. The Panel had adopted an open and transparent approach, and HC asked whether there was a need to filter this in any way to reflect the environment and context. MS responded that there had been a significant number of job losses (nationally, but particularly regionally and locally), and that there were general insecurities across the profession. There was also a collective paranoia generated by a part of the national press in terms of the way the Leveson Inquiry was approached and everything that had flowed from Leveson (i.e. the commentary around state control of the press). The profession was clearly bruised, but things were now starting to improve. However the issue of regulation did continue to generate a strong reaction across the profession.
28. DW emphasised that one of the reasons the Panel was particularly clear about its limited remit was to ensure its role was not misunderstood. DW asked NUJ colleagues to raise concern if anything that the Panel said or did that encouraged the concerns about allegations of state control of the press.
29. CF stated that there would be no criticism from the NUJ about the need for higher standards in journalism. MS added that the co-regulation model adopted in Eire was interesting to look at – the NUJ in fact covered the UK and Eire and so had a good understanding of the model and its benefits.

Additional information

30. MS confirmed that she would encourage local NUJ offices to attend events, and would be happy to host an event in London if this was of interest to the Panel.
31. DW concluded the session by inviting the NUJ to submit additional information as they wished.

Closing comments

32. The Chair thanked MS and CF for attending the meeting and for speaking so openly and frankly about issues.