

G'day Press Recognition Panel --- I'm someone who supports the Royal Charter approach, and who all along has hoped that the Leveson Report would actually turn out to result in an effective outcome. So I've thought about the consultation carefully, and read the submission **Hacked Off** has made to the PRP consultation. Consequently I am writing to you to say: [1] that I back **Hacked Off's** submission, which seems to have been prepared after listening carefully to actual victims of press abuse. So I do really hope you'll take this really seriously.

In particular I am keen that a press regulator should have a convincing arbitration set up. So concerning the Consultation I want to state my views, which are broadly in line with **Hacked Off**, concerning how the PRP should apply the Charter criteria in this context. So ...

Arbitration

Criterion 22 says that:

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 Rules³ 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).*

So because there seems to be a number of misunderstandings concerning the actual application of an arbitration scheme, I think the PRP needs to remove any grounds for ambiguity, and make some really simple points explicitly, even though "a reasonable man" might think them obvious. As follows:

All subscribers should be arbitration scheme member

Cherry picking which cases are taken to arbitration by Subscribers must be permitted.

So it really mustnt be allowed that a Subscriber can just decide not to use arbitration in a case,unless thats what is agreed with a claimant, or decided by the arbitrator.

Moreover, opting out of the arbitrtion scheme just because the publisher is only local or regional, see Schedule 2 paras 6 & 7, should only be allowed after a cyclical review.

And again, the wording "The administration fee in 22 (e) footnote is small and genuinely related to the costs of administration" is clearly only to avoid doubt. However as it might be exploited, to avoid ambiguity, this 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 addition, there is the need for explicit guidance in a couple of respects:

Regarding 22 (f), arbitration will only work if there's equivalent legal representation for the parties. So the PRP should make clear that any limit to a claimant's recoverable costs and expenses is set at a fair level. And the PRP should require this to be determined in such a way that a fair balance is achieved.

Regarding "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 should be clear rules requiring people responsible for setting the cap it to take into account the circumstances of the claim and of the arbitration.

Thank you for your attention,
Yours aye --- Richard Horobin