Notes of the PRP consultation event held on 18 June 2015 at Manchester Conference Centre

Introduction

Between 8 June and 31 July 2015 the PRP held a public consultation on how we would receive and determine applications for recognition from independent press self-regulators. As part of the consultation we held eight public events across England, Scotland, Wales and Northern Ireland. The events were an opportunity for the public to have their say on the proposed recognition process and to find out more about the PRP.

This event in Manchester was chaired by David Wolfe QC, Chair of the Press Recognition Panel (PRP). 15 members of the public attended. The notes below summarise the discussion, anonymised to protect the identity of individual members of the public.

Discussion

Asked whether it was the PRP's ambition for there to be only one regulator, David replied that the Charter allows for multiple regulators. The PRP did not have a view on how many there should be.

There was a general discussion about the principle of self-regulation, including the issue of whether or not a non-recognised regulator could continue to operate. David outlined the incentives for recognition: on the PRP's first anniversary various new court mechanisms would come into play - including damages and court/litigation costs - designed to encourage or persuade publishers to sign up with a recognised regulator. The PRP cannot compel a regulator to apply for recognition.

The costs to small publishers of joining a regulator was raised. David stated that the PRP's consultation on the future charging mechanism (to be undertaken in early 2016) would look at ensuring that the system did not stop small publishers coming through the doors. The PRP did not want to stifle the market so would take care to take account of all regulators' needs.

Asked whether a regulator could refuse membership to a potential subscriber, David explained that it could not refuse membership relevant publishers (criterion 23), but would not have to accept others who wanted to opt in voluntarily.

Given the Charter's requirements for independence, the potential risk of having a regulator with no understanding of how the press works was raised. David explained that the PRP's role will be to ensure the independence of the regulator's Board framing the code. Criterion 5 lists the people who cannot be on the Board and 5b and 5c places an obligation for regulators to have people with experience.

David explained that foreign ownership was not an issue. Media owners could be sued in England and Wales, not where they are publishing from.

David was asked to clarify the scope of criterion 8D (whistleblowing hotline), which makes no reference to reporters. Without compulsion for newspapers to sign up, how can it be effective. David explained that the criterion reference to "those," means journalists and other people working for publishers. The PRP inherited this wording but thinks more detail is needed for it to be helpful, which is why it proposed core indicators. These were developed using the National Audid Office's report on whistleblowing hotlines as a benchmark for a good, compliant hotline. If these went too far or not far enough, the PRP wanted respondents to the consultation to let them know. Journalists could only use the hotline service of the regulator their title were subscribed to.

In relation to criterion 11 (power to hear and decide on complaints) David was asked whether a Board must hear everyone's complaints or satisfy the PRP they have a system. David explained it was the latter.

The question was raised as to whether a disgruntled person wanting to complain might be better served if the title is outside the framework - to bring proceedings and not face costs is an unusual luxury. David said the expectation is that the system of 'sticks and carrots' would encourage change.

It was mooted that following the General Election it was unlikely there would be more regulation of the press or in other areas. One person asked whether the role of the PRP not be futile if the mainstream press refused to play. David explained that the PRP has no interaction with Government and that the Charter ensures the PRP's independence. The Charter gives it the framework to put the mechanics of the recognition framework in place. The Crime and Courts Act is part of the 'sticks and carrots' approach to self-regulation. It was yet to be seen whether these will be effective enough. The PRP was required to report on the state of recognition of the press – including for example if there was public disappointment in the framework - one year after opening to accept applications – but it was for others to act upon the inferences.

There discussion then moved on to arbitration (criterion 22) and whether this requirement would make it more difficult to dismiss spurious complaints. David explained that the arbitral system deals with things that currently go to court. It is meant to be quicker and more user friendly. A local title could still be sued but the person suing would not get costs back. Sitting alongside the provision for arbitration is the complaints system to deal with code breaches. The issue of why the Charter stipulates arbitration was raised, given there are other means of resolving disputes out of court e.g. Alternative Dispute Resolution (ADR). If a reputable Ombudsman makes a reasonable decision leave is unlikely to be given to take a case to court. The Ombudsman Service, for example, handles around 200,000 complaints a year. The framework helps identify vexatious and spurious complaints so the ADR system protects both parties. David explained that the origins of an arbitral scheme were in the Leveson Inquiry recommendations.

The point was made that it had typically been the case that there was a need to consider whether a complainant has 'deep pockets'. If there is an issue over inaccurate reporting, a complaint can be made to the reader's editor but if the issue is not resolved there is currently only one regulator (IPSO) that does not cover all the press. David explained that recognised regulators would have to comply with all criteria in order to benefit from the "sticks and carrots" package – it would not be possible to pick and choose – so complainants could request an arbitral process if they wished.

The point was made that journalists are trained to be accurate – the issue is around managers. Questions included: Was it not "a top down issue?"; Wasn't it unlikely that in the long run people could make money out of it?; Would a case not have to fit within the framework of defamation law? David stated that criterion 22(c) touched on this. David was then asked whether the issue of concern was about signing away your rights to go to somewhere else – wasn't it unlikely that pure arbitration could level the playing field between publishers and consumers? For example, in Australia a complainant still can go elsewhere. David invited further thoughts on this issue.

David was asked whether or not the PRP would have the power to tell a regulator to impose sanctions. David replied that it was not its role to tell regulators the level of sanction they should impose but the PRP would not be completely oblivious to the issue. It would also look at the regulator's relationship with members to see if it allows them to impose penalties and sanctions and whether the approach is reasonable. Asked for his views as to whether a published correction should be given the same prominence as the defamatory content it was supposed to address, David explained that it is for regulator to rule on prominence. Asked whether criterion 19 could be more helpful about the prominence of corrections, David said he would welcome suggestions on how this might be achieved.

David was asked whether the PRP had a definition of a ‘publisher’. David referred to the definition included in the consultation document and clarified that the definition does not cover a single person writing content (but they are still constrained by the law). One attendee said that he ran a hyper local website – which some might describe as a ‘blog’ - which readers might assume was created by multi-authors whereas in fact it was only him. By contrast, his university would be launching an on line publication with students contributing to it.

David stated that they may be a public body. He also gave examples including the Salford Star, Buzzfeed, Port Talbot Magnet, Brixton Bugle and the like, with two or three people contributing copy which would count as relevant publishers. There were a number of exceptions - including the multi-author blog - but there was still a risk of being sued. Those who sign up a member of a regulator would get the benefits of the Crime and Courts Act (CCA) regime and have a voluntary opt in to the ‘carrots’ (arbitration etc.), but could still be sued.

David was asked whether or not there was anything in the Charter that allowed the PRP to set standards for the public interest, which seemed to them to almost always be used as the first line of defense. David said there wasn’t and referred to criteria 7 and 8 (standards code) – the PRP had to make the code cover these requirements and is broadly reasonable.