

Newspapers on the naughty step: An analysis of the ethical performance of UK publications

Chris Frost, Liverpool John Moores University

Abstract. British newspapers are facing their worst ever ethical crisis with allegations of phone-hacking and other unethical practices including data-hacking, harassment and intimidation. The industry's regulator, the Press Complaints Commission, has announced it is to wind down and is transferring its asset and staff to a new authority ending its 21 year history as the newspaper regulator. Sections of the industry are fighting to ensure that any future body continues the pattern of self-regulation by portraying the *News of the World* as a rogue newspaper operating outside the standard practices of the industry. This paper seeks to discover if self-regulation as carried out by the PCC showed any signs of limiting press excesses and whether the *News of the World* really stood outside the industry norms by examining PCC complaints data and data from the Information Commissioner's Office concerning computer hacking.

Keywords: PCC; Press Complaints Commission; self-regulation; British press; Leveson Inquiry

Introduction

The Press Complaints Commission, Britain's press regulatory body, came into existence in January 1991 in the wake of growing concerns about the invasive nature of some newspapers and the falling reputation of the Press Council, the previous self-regulatory body for newspapers and magazines.

The PCC has now announced its closure and transfer of assets to a new regulator, the shape of which is yet to be decided at the time of writing. The decision to close was taken following the appointment of a new chairman, Lord Hunt. In a discussion document aimed at media owners and editors he suggested its replacement with a new self-regulatory body, one that he hopes will satisfy Lord Justice Leveson and the public as

being a more suitable replacement for the PCC.

The PCC that has ended in controversy was set up amidst controversy with many suggesting its very constitution was flawed. It was obliged only to receive complaints from the public and then decide whether they breached the Editors' Code of Practice and, if so, how they should be dealt with. It had no role in campaigning for press freedom (see Frost, 2001; Shannon, 2002).

The PCC was aware of the possibility of widespread use of unethical practices, such as phone-hacking, but despite carrying out its own review and reporting its findings to the Culture, Media and Sport Select Committee it found no evidence of systematic hacking, a conclusion the committee found inconceivable:

We are concerned at the readiness of all of those involved: News International, the police and the PCC to leave Mr Goodman¹ as the sole scapegoat without carrying out a full investigation at the time. The newspaper's enquiries were far from 'full' or 'rigorous', as we – and the PCC – had been assured. Throughout our inquiry, too, we have been struck by the collective amnesia afflicting witnesses from the *News of the World* (Culture Media and Sport Select Committee, 2010, p.103).

The report went on to say:

Following the *Guardian* revelations, the PCC started a review of the phone-hacking and blagging affairs. In its conclusions, published in November 2009, and which quoted only part of the police evidence to us, it effectively exonerated the *News of the World*. This drew an angry response from the *Guardian*, whose reports, the PCC said, "did not quite live up to the dramatic billing they were initially given". Mr Rusbridger then resigned in protest from the Code Committee. We accept that in 2007 the PCC acted in good faith to follow up the implications of the convictions of Clive Goodman and Glenn Mulcaire. The *Guardian's* fresh revelations in July 2009, however, provided good reason for the PCC to be more assertive in its enquiries, rather than accepting submissions from the *News of the World* once again at face value. This Committee has not done so and we find the conclusions in the PCC's November report simplistic and surprising. It has certainly not fully, or forensically, considered all the evidence to this inquiry (*ibid.*, p.109).

The PCC's poor response to phone-hacking is just a small part of both its work and its failures. The PCC identifies itself as "an independent self-regulatory body which deals with complaints about the editorial content of newspapers and magazines" (<http://www.pcc.org.uk/> accessed 21 March, 2012). However, it was only set up to consider complaints and its most recent chairman Lord Hunt, in his proposal for a replacement PCC identified it as such, giving up any idea of it being, or ever having been, a regulator (http://www.pcc.org.uk/assets/0/Draft_proposal.pdf, accessed 21 March, 2012). As Lord Hunt has identified, the PCC has clearly failed as a regulator; it has no investigatory powers, no ability to monitor the industry it was supposed to be regulating and no campaigning or regulatory role over press freedom. But its critics claim that it has also fallen down as a mediator, failing to offer reasonable redress to the traduced subjects of stories. An analysis of the complaints made and their fate will therefore be central to this paper making up research question 1: are there any signs that the PCC limited press excesses?

The performance of News International has been central to the collapse of the PCC and the *News of the World* (*NoW*) was the newspaper at the centre of the scandal surrounding press behaviour in the UK. Initially News International tried to portray Clive Goodman, the *NoW's* royal correspondent, as one rogue reporter after he was jailed for phone tapping. As it became clear, following revelations in the *Guardian* and elsewhere, that others at the *NoW* had been using similar methods the *NoW* was closed by its parent company in July 2011. James Murdoch, Deputy Chief Operating Office News Corporation and Chairman of News International said on 7 July, 2011:

In 2006, the police focused their investigations on two men. Both went to jail. But the *News of the World* and News International failed to get to the bottom of repeated wrongdoing that occurred without conscience or legitimate purpose. Wrongdoers turned a good newsroom bad and this was not fully understood or adequately pursued. As a result, the *News of the World* and News International wrongly maintained that these issues were confined to one reporter. We now have voluntarily given evidence to the police that I believe will prove that this was untrue and those who acted wrongly will have to face the consequences (<http://www.newstatesman.com/blogs/the-staggers/2011/07/james-murdoch-paper-sunday>, accessed 21 March, 2012).

Suggestions that other papers have been involved in phone hacking were quickly denied following the closure of the *NoW* as other papers tried to limit the damage to the industry. Paul Dacre, Editor in chief of Associated Newspapers, including the *Daily Mail* and the *Mail on Sunday*, told the Leveson Inquiry in the opening sessions:

there are thousands of decent journalists in Britain who don't hack phones, don't bribe policemen and who work long anti-social hours for modest recompense – and if they're in the regional press often for a pittance – because they passionately believe that their papers give voice to the voiceless and expose the misdeeds of

¹ Clive Goodman was the Royal Correspondent for the *News of the World* found guilty of intercepting phone messages and jailed.

the rich, the powerful and the pompous <http://hackinginquiry.org/news/paul-dacres-talk-at-leveson-inquiry-seminar/>, accessed 22 March, 2012).

So research question 2 concerns the *NoW* – was it a rogue newspaper? Is there any evidence in the PCC's complaints statistics that it raises significantly more complaints than other newspapers? If the News of the World is just one rogue paper and the PCC was any kind of regulator or even complaints mechanism, then the PCC complaints statistics should confirm this.

Methods

This paper will use quantitative methods to analyse the performance of the PCC and to see if any one newspaper or a group of newspapers are significantly more likely to cause complaint than another. If the PCC as the industry regulator was any measure at all of the standards existing in the industry it should surely identify papers that fell short of expectations by the number of complaints it attracts and upholds. Since many complaints made to the PCC do not breach the Code of Practice or are outside the remit of the PCC altogether, a count of the number of complaints made in total would not actually be particularly informative. For instance the PCC does not deal with:

Complaints about TV and radio ([Ofcom](http://www.ofcom.gov.uk/) is the regulator for the broadcast industry); Complaints about advertising (the Advertising Standards Authority is the regulator for the advertising industry); Concerns about matters of taste and decency; Legal or contractual matters that are dealt with more appropriately by the courts; Complaints about books; Complaints about online material that is not on newspaper or magazine websites (<http://www.pcc.org.uk/complaints/makingacomplaint.html>, accessed 7 December, 2010).

A database of all the PCC's published resolved and adjudicated cases (that is, cases that potentially breach the code) was set up and this allows for examination and analysis of the number of complaints made against each publication and each type of publication. It is the complaints the PCC identifies as potentially breaching the editors' code that allow us to identify unacceptable press behaviour. A league table of publications reflecting this performance was produced from the data that allows for examination of the reaction to these figures by the publications.

There are two sets of statistics flowing from the PCC: adjudicated complaints and resolved complaints. When the PCC first receives a complaint, it looks to see if it can resolve it, something it sees as its primary aim:

Depending on the seriousness of the case, there are a variety of ways in which complaints can be resolved. For instance, if a serious error has been published, a correction or apology in the paper may be required. Alternatively, we can seek assurances about future coverage or perhaps look to have online material amended or deleted. We cannot generally obtain financial compensation. If your complaint is resolved, we will publish a summary of the case on our website (<http://www.pcc.org.uk/complaints/makingacomplaint.html>, accessed 7 December, 2010)

Only if the PCC believes the code has been breached, and has not or cannot be remedied, will it move to adjudicate the complaint. Where possible the PCC will always seek to resolve a complaint, leaving adjudication only for obvious breaches of the code that cannot be remedied or resolved. The PCC will discuss the case with the publication and with the complainant seeking to either persuade the publication and the complainant to agree a suitable resolution, in which case it will sign the case off as resolved or, where the newspaper offers a resolution that is not acceptable to the complainant but which the PCC feels makes a reasonable offer, the PCC will conclude the case under the rubric "sufficient remedial action offered".

The PCC publishes its adjudications and resolutions of complaints on its website, but despite a request from the parliamentary Culture, Media and Sport select committee in 2003, has always refused to keep a league table of the performance of different publications choosing instead to publish some limited examples of complaints. The PCC has however published annual details of the percentage of investigated complaints by publication type apart from a short period (2005-2008) when it published only the percentage of complaints made about privacy. No explanation is given in the annual reports for this change of data collection, although it does make the statistics look more favourable for national newspapers, something of concern to the PCC. In 2003, the only year when complaints against regional papers came close to matching those of national papers the PCC reported:

"Interestingly, the proportion of investigated complaints against the national and regional press is exactly the same at around 41%, while 8.7% of investigations were into the Scottish press, 2.4% into the publications of Northern Ireland and 6.7% into magazines." (<http://www.pcc.org.uk/assets/80/2003.pdf>: 3)

The following year, as numbers returned to more typical values, the PCC started producing breakdowns for privacy and noted that "most privacy cases concern the regional and local press – perhaps not surprising-

ly given the size of that industry” (http://www.pcc.org.uk/assets/80/Annual_Review2006_mid_res.pdf: 4).

In 2009 it reverted to publishing the full breakdown to show that more than 51% of complaints were against national papers, emphasising that the 20 or so papers (dailies and Sundays) with the most experienced staffs and the biggest editorial budgets received consistently more than half the complaints. The PCC commented, rather strangely bearing in mind the balance of the figures:

People are often surprised that complaints about the national press do not make up a higher proportion than they do. Looking at cases where an investigation was warranted, the proportions are as shown

(http://www.pcc.org.uk/review09/2009_statistics/complaints_dealt_with.php)

Analysis

The first figures analysed here examine the performance of various types of publication and particularly national newspapers and regional newspapers as identified in the PCC’s annual reports. Taking an average over the 13 years available (1993-2010 excluding 2005-2008 because of the change in collection methods mentioned above) national newspapers are responsible for almost half of complaints.

Table 1: Average percentage of complaints investigated by the PCC sorted by publication type

	Average 1993-2010	Privacy only (2005-8)
National papers:	47.9%	33.8%
Regional and local papers:	34.5%	49.7%
Scottish Papers:	8.7%	8.6%
Northern Irish papers:	2.3%	2.7%
Magazines:	5.6%	5.3%
Others:	0.9%	-

Table 1 concerns all investigated complaints but only a handful of investigated complaints go on to adjudication by the Commission. Most are resolved by either the publication complained of offering remedial action that the commission considers acceptable or by offering a resolution accepted by the complainant. Table 1 makes it clear that the national newspapers are the largest problem in terms of total complaints for no obvious reason connected with publication. Circulation sizes may be much greater than for most regional papers, but circulation can have no effect on the editorial standards of the stories or their likelihood of breaching the code in itself. National newspapers do not publish more often than regional papers and Sunday newspapers do not publish more often than many magazines. There are hundreds of publications in the UK and 306 publications in total have had complaints adjudicated by the PCC. Several hundred more of course will have published without any complaints at all to the PCC. Of the 306 newspapers with adjudicated complaints only 50 count as national or Sunday newspapers, 16.3% of the total, well short of the 47.9% of complaints. It is worth noting that when privacy complaints only are compared in 2005-2008, the position is reversed and regional papers are responsible for almost half of complaints in this category.

Moving on to look at the individual complaints themselves, if the PCC is obliged to move to adjudication (involving typically only 40 or so cases a year out of [for example] the 7,000 plus cases it received in 2010) it will decide if the publication has breached the code. If the PCC upholds a complaint:

The newspaper or magazine is obliged to publish the critical ruling in full and with due prominence. This is a serious outcome for any editor and puts down a marker for future press behaviour

(<http://www.pcc.org.uk/complaints/makingacomplaint.html>, accessed 7 December, 2010).

This implies that the very act of having to publish a PCC adjudication is designed to be seen as an admission of failure by editors, something supported by editors themselves. As *Daily Mail* Editor Paul Dacre told the Culture Media and Sport select committee during its inquiry into press intrusion in 2003, and later the Leveson Inquiry:

Let’s quickly debunk the other myths: ...Editors regard adjudications as a slap on the wrist: They certainly don’t. They are genuine sanctions. I, and other editors, regard being obliged to publish an adjudication as a real act of shame (<http://www.guardian.co.uk/media/2011/oct/12/paul-dacre-leveson-speech>, accessed 2 December, 2011).

This “naming and shaming” is the only tool the PCC has to control newspaper and magazine behaviour. The PCC, unlike its broadcast counterpart Ofcom, is unable to fine a publication or punish in any other way. Since the only serious punishment is an adjudication and the subsequent obligation to publish in the offending publication, rather than a resolution of a complaint, the only way to measure standards of journalistic performance is to analyse data showing which publications are most complained about, which have most

upheld adjudications and to what the various resolutions and adjudications refer.

Table 2: League table of newspapers by number of complaints resolved by the PCC (as at October,

Publication	Resolutions	Average
Daily Mail	239	11.95
The Sun	180	9
Daily Mirror	106	5.3
Daily Express	104	5.2
News of the World	94	4.7
The Times	90	4.5
The Mail on Sunday	86	4.3
Evening Standard	80	4
The Guardian	63	3.15
The Daily Telegraph	62	3.1
The Sunday Times	57	2.85
Sunday Mirror	52	2.6
Daily Star	51	2.55
Daily Record	50	2.5
The people	46	2.3
Sunday Express	45	2.25
The Independent	38	1.9
Scottish Sun	37	1.85
The Sunday Telegraph	36	1.8
Sunday Mail	35	1.75

2011)

Newspapers high in the league of both resolved complaints and adjudications are unlikely to cause gasps of surprise. They include 19 of the 50 national daily or Sunday newspapers. The odd one out is the *Evening Standard*, the regional paper for London and the Home Counties. The *Sun* and *News of The World*, both News International publications, are at the top of both tables, together with Associated News' *Daily Mail* and *Mail on Sunday*. The *Daily Mirror* competes closely, as do several other national papers, including the *Daily Express*, *the Star* and *the Sunday Times*. *The Sun* is a clear leader in the adjudicated

complaints table with 39% of its 64 complaints upheld.

Table 3: League table of newspapers by number of adjudicated PCC complaints (as at October,

Newspaper	total	upheld	part uh	% uh	reject	notpur	res	Avg	Avg
The Sun	64	25	1	39	37	0	1	3.2	1.3
News of the World	54	17	5	31	28	1	2	2.7	0.9
Mail on Sunday	52	16	3	31	30	2	2	2.6	0.8
Daily Mail	49	7	2	14	36	0	3	2.5	0.4
Daily Mirror	48	12	5	25	26	0	3	2.4	0.6
Sunday Times	39	13	0	33	25	0	0	2.0	0.7
Evening Standard	36	10	1	28	22	0	3	1.8	0.5
Daily Star	31	11	1	35	17	0	2	1.6	0.6
Sunday People	26	9	1	35	16	0	0	1.3	0.5
Daily Telegraph	24	6	1	25	15	0	2	1.2	0.3
Sunday Mirror	23	10	1	43	10	1	1	1.2	0.5
Daily Express	23	6	2	26	15	0	0	1.2	0.3
Sunday Mail	21	8	2	38	10	0	1	1.1	0.4
Daily Record	17	6	2	35	9	0	0	0.9	0.3
Today	16	11	0	69	5	0	0	0.8	0.6
Sunday Telegraph	15	2	0	13	10	0	3	0.8	0.1
The Guardian	15	2	1	13	12	0	1	0.8	0.1
The Times	14	2	0	14	11	1	0	0.7	0.1
The Independent	11	3	0	27	8	0	0	0.6	0.2
Daily Sport	10	9	0	90	0	0	0	0.5	0.5

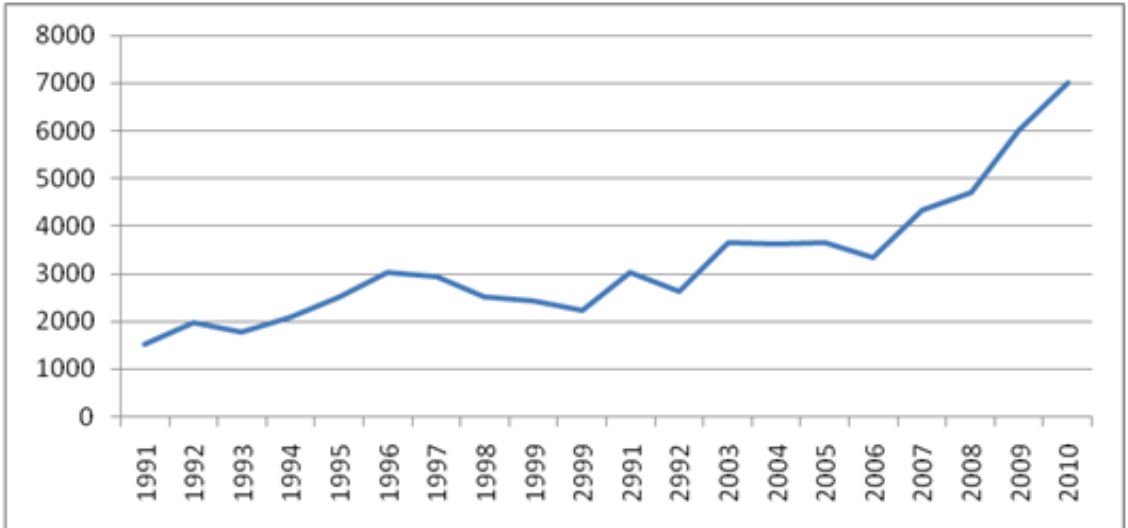
2011)

Newspaper	total	upheld	part uh	% uh	reject	notpur	res	Avg	Avg uh
The Sun	64	25	1	39	37	0	1	3.2	1.3
News of the World	54	17	5	31	28	1	2	2.7	0.9
Mail on Sunday	52	16	3	31	30	2	2	2.6	0.8
Sunday Times	39	13	0	33	25	0	0	2.0	0.7
Daily Mirror	48	12	5	25	26	0	3	2.4	0.6
Daily Star	31	11	1	35	17	0	2	1.6	0.6
Today	16	11	0	69	5	0	0	0.8	0.6
Evening Standard	36	10	1	28	22	0	3	1.8	0.5
Sunday Mirror	23	10	1	43	10	1	1	1.2	0.5
Sunday People	26	9	1	35	16	0	0	1.3	0.5
Daily Sport	10	9	0	90	0	0	0	0.5	0.5
Sunday Sport	9	9	0	100	0	0	0	0.5	0.5
Sunday Mail	21	8	2	38	10	0	1	1.1	0.4
Daily Mail	49	7	2	14	36	0	3	2.5	0.4
Daily Telegraph	24	6	1	25	15	0	2	1.2	0.3
Daily Express	23	6	2	26	15	0	0	1.2	0.3
Daily Record	17	6	2	35	9	0	0	0.9	0.3
Sunday Mercury, Birmingham	8	6	1	75	1	0	0	0.4	0.3
Bedfordshire on Sunday	6	5	0	83	1	0	0	0.3	0.3
The Observer	7	4	0	57	2	1	0	0.4	0.2

61 5011)

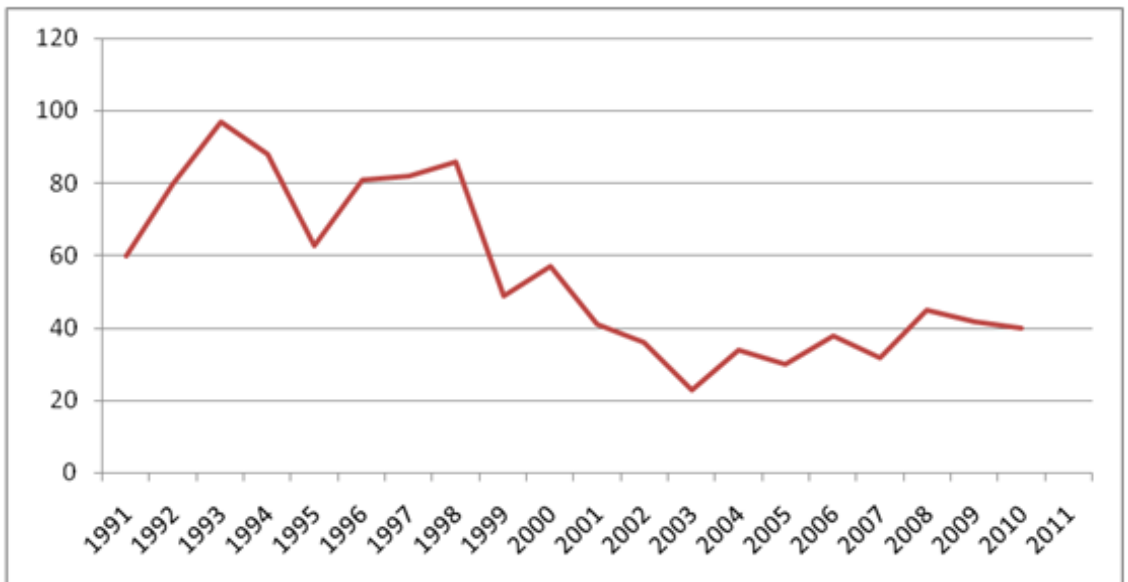
Numbers of adjudications

The PCC received over 7,000 complaints in 2010, more than triple the number of the early nineties (the PCC has still to announce numbers for 2011 at the time of writing but adjudications have remained at the same level as 2010). Despite this increase in complaints, the number of adjudications made by the PCC has fallen and has averaged just under 40 over the past three years, compared with an average for the full 20 years of 53.3.



- *Please note: PCC claims to have received more than 37,000 complaints in 2009, of which at least 21,000 relate to complaints about Jan Moir's column in the Daily Mail and have been deleted from total.*
- *Figures for 2010 given in annual report refer to more than 7,000 complaints.*

Figure 1: Total number of complaints made to the PCC



Articles

Figure 2: total adjudications, both rejected and upheld

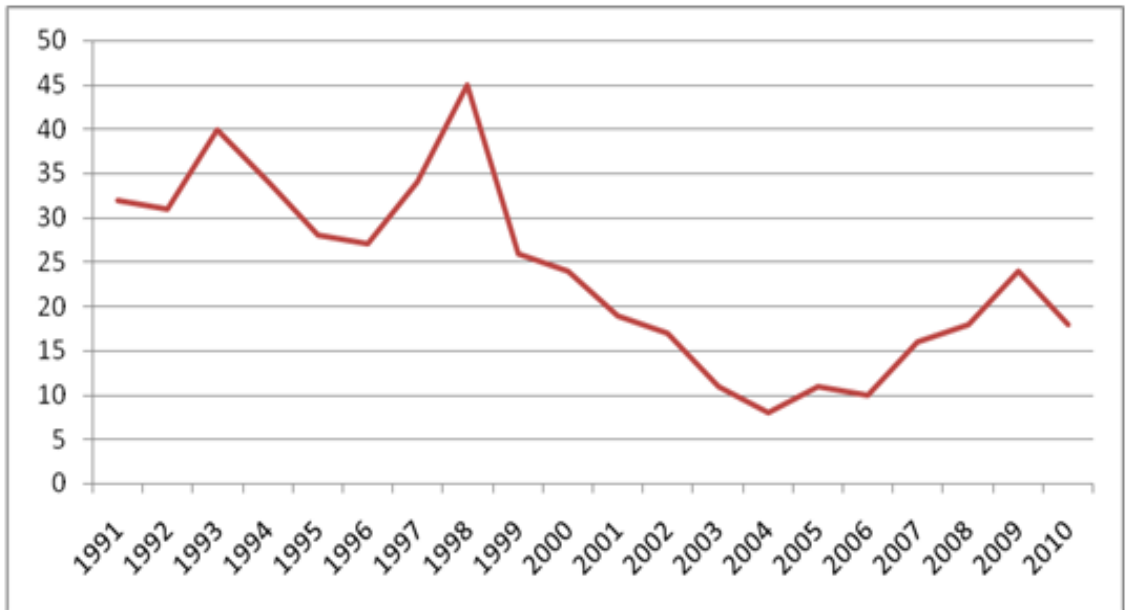


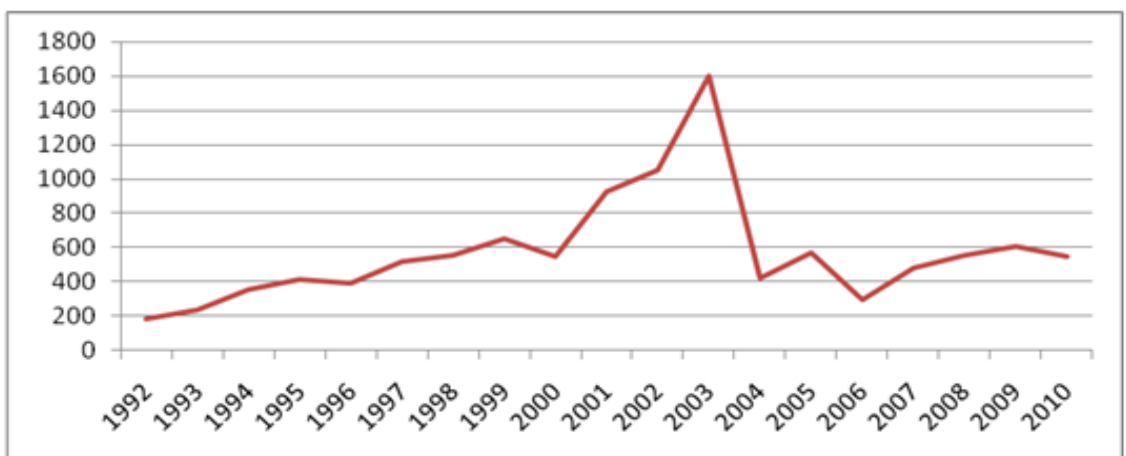
Figure 3: Complaints to the PCC leading to public censure (upheld)

Part of the reason for this fall in the number of adjudications, according to the PCC, is that they now resolve far more complaints than they did in the early years and only seek to adjudicate where there is a serious prima facie breach of the Code of Practice. The PCC believes that its role is to negotiate amicable settlements to cases where possible (PCC annual report 2003: 4) and claims that the fall in the number of adjudications is because this drive towards resolution has been successful and there is certainly evidence to show they resolve more cases than in the early years (see figure 4). The PCC resolves cases in two separate ways. The first is where the case is resolved to the satisfaction of the complainant:

Some of the ways of achieving this are: the publication of a correction or an apology; a follow-up piece or letter from the complainant; a private letter of apology from the editor; an undertaking as to future conduct by the newspaper; or the annotation of the publication’s records to ensure that the error is not repeated

(<http://www.pcc.org.uk/cases/>, accessed 9 December, 2011).

The second is where the case cannot be resolved to the satisfaction of the complainant and so the case goes to adjudication but the PCC decides it is satisfied that the paper has offered “sufficient remedial action”.



Articles

Figure 4: Complaints to the PCC that were resolved

Many of the resolutions involve matters that could have been resolved by the editor without the need to involve the PCC at all. Virtually all resolved cases concern complaints about accuracy.

Newspapers

Analysis of the data shows that *The Sun* (64 complaints, 25 upheld), *The News of the World* (54/17), *The Mail on Sunday* (52/16), *The Daily Mail* (49/7), and the *Daily Mirror* (48/12) top the complaints league table. The same papers top the resolved cases league as well, where they are joined in the top seven by the *Daily Express* and *the Times*. This is not to suggest they have necessarily committed the worst offences, just that they regularly produce stories that are the centre of complaints. In order to examine their records in more detail, a smaller sample of complaints adjudicated in the five-year period January 2007 up until the end of November 2011 was selected.

Choosing just the last five years shows some changes in the league tables. The News of the World has slipped down the league table quite considerably, although it is still in the top ten of both resolutions and adjudications. Its closure in July 2011, with a consequent zero complaints from that time, would not have caused this drop

Publication	Resolutions	Average
Daily Mail	87	4.35
The Sun	62	3.1
Daily Mirror	36	1.8
Evening Standard	30	1.5
The Mail on Sunday	27	1.35
Daily Express	25	1.25
News of the World	25	1.25
The Daily Telegraph	25	1.25
The Times	17	0.85
The Guardian	16	0.8
The Sunday Times	16	0.8
Sunday Mirror	14	0.7
Metro	13	0.65
Daily Star	12	0.6
Scottish Sun	11	0.55
The Sunday Telegraph	11	0.55
London Lite	10	0.5
Sunday Mail	10	0.5
The Independent	9	0.45
Edinburgh Evening News	8	0.4

Table 5: League table of newspapers by number of resolved PCC cases 2007-2011 (as at October, 2011)

Newspaper	total	upheld	part uh	% uh	reject	notpur	res	Avg	Avg uh
Daily Telegraph	10	2	0	20	7	0	1	0.5	0.1
Daily Mirror	9	2	0	22	5	0	2	0.5	0.1
Sunday Times	9	3	0	33	6	0	0	0.5	0.2
The Sun	9	4	0	44	4	0	1	0.5	0.2
Daily Mail	8	0	0	0	6	0	2	0.4	0.0
Scottish Sun	6	0	0	0	5	0	0	0.3	0.0
Mail on Sunday	6	1	0	17	4	0	1	0.3	0.1
The Guardian	5	0	0	0	4	0	1	0.3	0.0
Daily Record	5	3	0	60	2	0	0	0.3	0.2
Sunday Telegraph	4	0	0	0	2	0	2	0.2	0.0
Daily Star	4	2	0	50	1	0	1	0.2	0.1
News of the World	4	3	0	75	1	0	0	0.2	0.2
Daily Express	3	1	0	33	2	0	0	0.2	0.1
Woman	3	2	0	67	0	0	0	0.2	0.1
Sunday World	3	3	0	100	0	0	0	0.2	0.2
Echo/Daily Gazette	2	0	0	0	2	0	0	0.1	0.0
Gazette (Renfrewshire)	2	0	0	0	2	0	0	0.1	0.0
Scottish Mail on Sunday	2	0	0	0	2	0	0	0.1	0.0
Loaded	2	0	0	0	2	0	0	0.1	0.0
Paisley Daily Express	2	0	0	0	2	0	0	0.1	0.0

Table 6: League table of newspapers by number of adjudicated complaints 2007-2011

Newspaper	total	upheld	part uh	% uh	reject	notpur	res	Avg	Avg uh
The Sun	9	4	0	44	4	0	1	0.5	0.2
Sunday World	3	3	0	100	0	0	0	0.2	0.2
News of the World	4	3	0	75	1	0	0	0.2	0.2
Daily Record	5	3	0	60	2	0	0	0.3	0.2
Sunday Times	9	3	0	33	6	0	0	0.5	0.2
News of the World, Scotland	2	2	0	100	0	0	0	0.1	0.1
Take a Break	2	2	0	100	0	0	0	0.1	0.1
Evening Argus, Brighton	2	2	0	100	0	0	0	0.1	0.1
FHM Magazine	2	2	0	100	0	0	0	0.1	0.1
Woman	3	2	0	67	0	0	0	0.2	0.1
Daily Star	4	2	0	50	1	0	1	0.2	0.1
Daily Mirror	9	2	0	22	5	0	2	0.5	0.1
Daily Telegraph	10	2	0	20	7	0	1	0.5	0.1
Loughborough Echo	1	1	0	100	0	0	0	0.1	0.1
Newham Recorder	1	1	0	100	0	0	0	0.1	0.1
Dorset Echo	1	1	0	100	0	0	0	0.1	0.1
Lancashire Telegraph	1	1	0	100	0	0	0	0.1	0.1
Hamilton Advertiser	1	1	0	100	0	0	0	0.1	0.1
Strathspey and Badenoch Herald	1	1	0	100	0	0	0	0.1	0.1
The Sun website	1	1	0	100	0	0	0	0.1	0.1

Table 7: League table of newspapers by upheld PCC complaints 2007-11

Generally, as the number of adjudications each year has fallen and the number of resolutions risen, so we see a similar adjustment in the chart for each of these five newspapers. Each of them sees an approximate ten-fold drop in both the number of complaints adjudicated and the number of adjudications upheld over the period of the last five years of the study. There is also a three-fold fall in the number of resolutions in the same period. A newspaper such as the *Daily Mail*, which leads the resolution league across the lifetime of the PCC with an average of 11.95 cases, only requires resolution on average 4.35 times a year from 2007. This could be caused by a change in process by the PCC and/or by mass improvements in standards by newspapers (although the evidence given at the Leveson inquiry suggests this is unlikely) or it could be caused by a change of approach by the papers under review.

This was suggested to Paul Dacre of the *Daily Mail* at the Leveson inquiry when Mr Robert Jay, QC to the inquiry, asked whether it was the *Daily Mail's* policy to avoid adjudication at all costs by wearing down complainants. Mr Dacre said:

“I don’t know what you’re trying to say. If someone makes a complaint to the PCC, they investigate it, they decide whether it goes for adjudication and a decision is made, and then we will carry that ruling against us in the paper and the reasons why the PCC found against us.”

(<http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Afternoon-Hearing-6-February-20121.pdf> , pp.43-44).

Whilst Mr Dacre’s answer is instructive, publications other than national dailies, Sundays or magazines receive too few complaints for this tactic of wearing down complainants to be useful. The typical regional paper receives on average about one complaint every ten years with half or fewer of those being upheld. Of the 1,058 complaints adjudicated in 20 years, 477 of them (44%) were made about the top 20 publications listed above. However, it is worth examining the number of “sufficient remedial action offered” responses for national newspapers in light of Mr Jay’s question. The PCC uses this adjudication when it thinks newspaper have done sufficient to ameliorate the complaint even though the complainant may still not be entirely satisfied. This judgement has become particularly popular since 2003 with all but one of the 36 resolutions happening since then. Of these only nine are from provincial papers with the other 27 (75%) being national newspapers or magazines.

In order to understand the type of complaints received about national newspapers, the complaints faced by the top five papers for adjudication together with the outcomes are given in Table 8.

Table 8: PCC adjudication findings for top five complained of newspapers 2007-2011

Paper	upheld	rejected	SRA	Complaint concerned	
				accuracy	privacy
Daily Mail	0	6	2	75%	50%
Daily Mirror	2	5	2	33%	55%
Mail on Sunday	1	4	1	50%	50%
News of the World	3	1	0	50%	50%
The Sun	4	4	1	44%	55%

Moving away from the PCC to look for further evidence of press behaviour, the Information Commissioner’s Office in 2006 published *What Price Privacy Now*, a report of its Operation Motorman investigation into the illegal trade in confidential personal information that explained:

Section 55 of the Data Protection Act 1998 ... makes it an offence (with certain exemptions) to obtain, disclose or procure the disclosure of personal information knowingly or recklessly, without the consent of the organisation holding the information. Offences are punishable by a fine only: up to £5,000 in a Magistrates’ Court and unlimited in the Crown Court.”(ICO, 2006, p.4)

What Price Privacy?, an earlier report about Operation Motorman, had reported that 305 journalists had been identified as customers driving the illegal trade. *What Price Privacy Now?* identified the papers these reporters worked for. These are listed in Table 9 (below) and it can be seen that the list of papers identifies

many of the same newspapers that are high up the league table of PCC adjudications.

Publication	Number of transactions positively Identified	Number of Journalists/clients using services
Daily Mail	952	58
Sunday People	802	50
Daily Mirror	681	45
Mail on Sunday	266	33
News of the World	228	23
Sunday Mirror	143	25
Best Magazine	134	20
Evening Standard	130	1
The Observer	103	4
Daily Sport	62	4
The People	37	19
Daily Express	36	7
Weekend Magazine (Daily Mail)	30	4
Sunday Express	29	8
The Sun	24	4
Closer Magazine	22	5
Sunday Sport	15	1
Night and Day (Mail on Sunday)	9	2
Sunday Business News	8	1
Daily Record	7	2
Saturday (Express)	7	1
Sunday Mirror Magazine	6	1
Real Magazine	4	1
Woman's Own	4	2
The Sunday Times	4	1
Daily Mirror Magazine	3	2
Mail in Ireland	3	1
Daily Star	2	4
The Times	2	1
Marie Claire	2	1
Personal Magazine	1	1
Sunday World	1	1

Table 9: Cases of personal data accessed by reporters according to the ICO in 2006

Articles

Source: ICO: *What Price Privacy Now?* (2006)

The report identifies the seemingly widespread use of private detectives to hack into the personal data of a number of people. Such hacking could or might include health records, bank account details, computer records and other private information accessed, although Paul Dacre told the Leveson inquiry that the breaches as far as his paper was concerned were almost exclusively to get ex-directory phone numbers and stopped after the Motorman report. Asked at the Leveson inquiry if he should have conducted an inquiry into the use of private detective Steven Whittamore's services at the time, Mr Dacre responded that he thought that unfair:

Everybody, every newspaper - and I see the BBC spent nearly as much on enquiry agents as we did - was using him. We didn't realise they were illegal. There was a very hazy understanding of how the Data Protection Act worked and this was seen as a very quick way of obtaining phone numbers and addresses to corroborate stories (<http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Afternoon-Hearing-6-February-20121.pdf>, p.49)²

Little was published about this at the time, probably because none of the newspapers involved wish to emphasise the problem.

Conclusion

Even an analysis as detailed as this fails to throw up any reason to believe that the PCC is addressing issues of standards through the industry. It is a complaints body pure and simple, offering an opportunity for the subjects of stories to get some redress, but no more than should have been possible by complaining direct to the newspaper. There is nothing additional to be gained for the complainant in using the PCC other than an experienced case officer to help them pursue their complaint to the point when either the complaint is adjudicated or they are told that it would be best to accept the resolution on offer. Nor is there any compelling evidence that the standards and behaviour of the *NoW* were any worse than other newspapers of its type.

There are clearly two distinct categories of publication making up the PCC's work, excluding those who never come to the PCC's attention. The first are small circulation magazines and provincial newspapers that make the occasional ethical lapse, usually a clear error of editorial judgement, perhaps caused by inexperience or a lack of training, that is either serious enough for the PCC to uphold the complaint despite the paper taking its own action, or where the publication offers sufficient remedial action for the PCC to accept it. The latter is rarer, but the typical publication in this category averages one complaint every ten years, a complaint rate that many a business would envy.

The other category almost exclusively concerns national publications, mainly newspapers. There is no reason to suppose that their much higher circulation will have been the reason for a very much higher level of complaints. Complaints are normally only accepted from the subject of a story and for the average person, the local paper is as important as a national. For those in the public eye, more likely to feature in a national publication, there is more likely to be an acceptance that publication is only to be expected and perhaps this explains the balance of privacy complaints identified in Table 1. There is no obvious reason for national newspapers to figure more prominently in the PCC's work nor is there evidence that the intrinsic nature of the publication or the nature of its circulation can have any effect on the number of complaints. The type of story on the other hand does have an effect. Moreover, it seems from a close examination of all the complaints that whilst the regional press is more likely to carry errors that are excruciating and often embarrassing for all concerned, the stories complained of in the nationals are more often deliberate attempts to push the story to the very limits of its credibility. This would explain the much higher use of the remedial action defence as those papers seek to avoid complaints by offering more and more in terms of remedy until finally the PCC accepts that sufficient action has been offered, even if the complainant is still not fully satisfied. The *Daily Mail* is a good example of this, despite Mr Dacre's response at the Leveson inquiry. Although no complaint was upheld against it in the last five years, it came fifth in the league of adjudications made, slipping only just behind the *Sun* and the *Daily Mirror* (although it's worth noting that the *Daily Telegraph* is the surprise head of the table). However, looking at resolutions, the *Daily Mail* is the clear leader with almost a third more complaints than any other newspaper.

These figures suggest that some newspapers are dodging the spirit of the PCC by avoiding making corrections or offering apologies early on to either the PCC or complainant. This in turn obliges the PCC to enforce a settlement, in terms of the form of words and placement, and so minimises the newspaper's culpability even though the complainant finds it unacceptable.

2 In fact, the BBC was not listed by the ICO's report.

It is this avoidance of the spirit of the PCC, relying on it to present a public face that is in fact far from the reality, that has brought the PCC into disrepute, has led to the Leveson Inquiry, and will may well lead to a form of regulation that will be highly unpalatable to editors and proprietors who have relied on providing cheap-to-produce salacious stories to boost both their circulation figures and their profits. It is something of an irony that not only did this policy clearly fail, but that it was also the mechanism that will oblige adherence to stronger codes of ethics, long desired by many both within and without the industry.

References

- Browne, C. (1996) *The Prying Gam*, London: Robson Books
- Committee on Privacy (1972) *The Report on the Committee on Privacy*, London: HMSO
- Frost, C. (2000) *Media Ethics and Self-Regulation*, London: Pearson
- Frost, C. (2011) *Journalism Ethics and Regulation, 3rd edition*, London: Pearson
- Gibbons, T. (1989) *Regulating the Media, 2nd edition*, London: Sweet and Maxwell
- House of Commons Culture, Media and Sport Committee (2003) *Privacy and Media Intrusion: Fifth Report of session 2002-2003*, London: HMSO
- House of Commons Culture, Media and Sport Committee (2010) *Press standards, privacy and libel: Second Report of Session 2009–10*, London : HMSO
- ICO (2006) *What Price Privacy Now?* London: HMSO
- O'Malley, T. and Soley, C. (2000) *Regulating the Press*, London: Pluto
- Press Complaints Commission, *PCC Reports 1991-2012*, London: HMSO
- Press Complaints Commission, *Quarterly reports*, London: PCC
- Robertson, G. (1983) *People Against the Press*, London: Quartet
- Shannon, R. (2002) *A Press Free and Responsible*, London: John Murray

1 Clive Goodman was the Royal Correspondent for the News of the World found guilty of intercepting phone messages and jailed.

Contact Chris Frost at c.p.frost@ljmu.ac.uk