

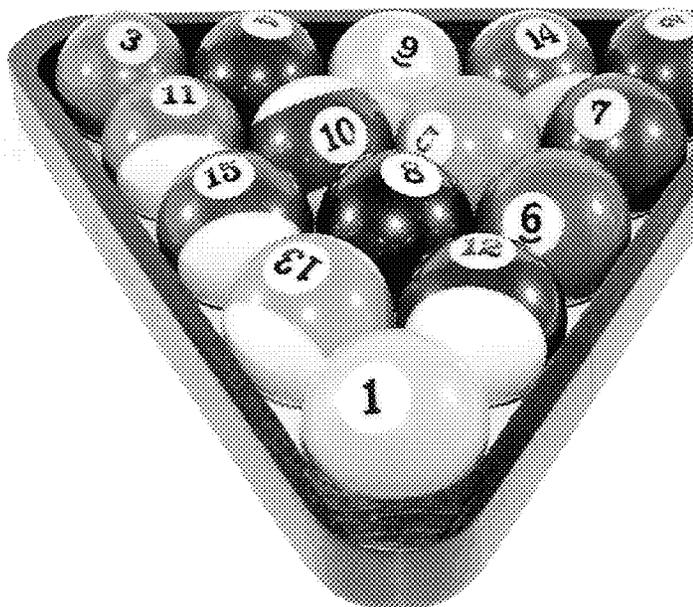


# PCC Statistics

A critical analysis by the Media Standards Trust

June 2011 (unpublished)

Submitted to the Leveson Inquiry, December 2011



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## Foreword

Earlier this year (2011) the Media Standards Trust began researching and writing a report measuring the success of the PCC on its own terms on the basis of its own statistics. These are the complaints statistics the PCC records on its website and in its annual review. This report is the result of that research.

The initial findings of this report were sent to the PCC prior to publication. Their reaction is taken into account within the introduction to the findings.

The findings were also sent to the independent fact-checking organisation Full Fact. Given our previous experience of analysing the PCC's statistics, when the Media Standards Trust was criticised for misinterpretation, we asked Full Fact to do an independent audit of our analysis. Their audit can be found at the end of this report.

We originally planned to publish the report in the summer. Before we could finish it *The Guardian* published further revelations about phone hacking. These revelations, and the accompanying public reaction, led all three political party leaders to announce the end of the PCC and its replacement with a 'new system entirely'.

The government then announced the establishment of the Leveson Inquiry into the culture, ethics and practices of the press, with terms of reference that include the recommendation of a new more effective policy and regulatory regime.

Although this report remains unpublished we believe it may be of help to the inquiry when considering such a regime. For this reason we are submitting the report to the Leveson Inquiry.

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## Crunching the PCC's data

*Measuring the success of the press complaints process is hard, but the way it is currently measured does not help. The current method is opaque, inconsistent and far too ad hoc*

When something untrue is written about you it is not unreasonable for you to want it to be corrected. If possible you would probably like it to be corrected quickly, in the same publication, and with similar prominence to the original article. That way, you hope, those who read the original inaccuracy will see it was wrong and the error will not persist or be repeated.

Unfortunately, until very recently few national news outlets in the UK provide a method of quickly and prominently correcting articles. The exceptions prior to September were *The Guardian*, *The Observer*, and the *FT*. *The Times* also has a readers' editor. Since the start of the Leveson Inquiry in September the *Daily Mail*, the *Mail on Sunday*, the *Daily Mirror*, and *The Metro* have added corrections columns. Few news outlets have independent ombudsmen, and many still do not have clear or explicit complaints processes through which you can get a correction.

This is one of the main reasons the PCC exists: to negotiate, on behalf of individual complaints, corrections or apologies for articles that were inaccurate, intrusive, or in another way broke the press' Editorial Code of Practice.

All things considered the PCC appears to be reasonably good at this sort of mediation. Its secretariat, who are mostly young and all well-intentioned, do their utmost to mediate between the editors of the news outlets concerned and the individual complainants. They are hamstrung by the limited resources at their disposal and by their lack of leverage – having no compulsory sanctions – but within these constraints they try very hard and achieve a good deal.

This is separate to the other roles of a regulator, which the PCC is much less able to fulfil – as the Media Standards Trust has documented at length elsewhere.

Still, given that the successful negotiation of complaints is one of the main measures of success of the PCC, it is incumbent on the organisation that it



keeps track of its success in negotiating corrections and apologies, and of the sanctions imposed by the press' self-regulatory body.

It does this through its complaints statistics. These come in three forms:

- ongoing publication of cases that are resolved or adjudicated. These are published on the PCC's website
- monthly summaries
- the PCC Annual Review, published in May each year.

These are the figures by which the PCC illustrates its effectiveness in dealing with individual complaints to the outside world. They are also the figures by which the outside world should be able to judge how well the PCC is performing.

Only, right now, we can't. There are four reasons why we can't:

- The PCC only releases a small proportion of the data it captures
- The PCC does not make clear the methodology by which it analyses the data
- The PCC is not consistent in its definition of the data
- The PCC does not have adequate processes to capture the data.

This is important because it means that outsiders, like the Media Standards Trust in *A More Accountable Press*, Nick Davies (who previously tried to analyse the PCC's figures in *Flat Earth News*), or any members of the press or the public, cannot examine the PCC's numbers for themselves. At least not without being told they have misunderstood the data, incorrectly assessed the methodology, or come up with 'the statistics of the madhouse'.

We discovered these failures when we tried to do our own detailed analysis of the PCC's figures earlier this year.

To do this analysis we used the PCC's publicly available data - the ongoing data it publishes about resolved and adjudicated complaints. Since this is not published by the PCC in a format that can be analysed, we scraped all the data ourselves - going back to 1996 - and formatted it in a searchable database (that you can find at <http://complaints.pccwatch.co.uk>). We also went through each complaint, tagged it, and added a short summary and a link to the offending article and the apology or correction (if either or both were available on the web). This way it became possible for us - and anyone else that wants to - to analyse resolved and adjudicated complaints by news outlet, by complaint type and by complaint. It means you can see easily see, for the first time, how many complaints have been upheld and against whom.

This makes press complaints data, previously opaque and virtually unusable, open and user-friendly.

## **PCC only releases a small proportion of the data it captures**

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We used this database to analyse the PCC's performance – on a statistical level – in 2010. This meant analysing the 526 resolved and adjudicated complaints published in 2010.

You can see the findings of this analysis, along with the data on which it was based, explanations of the methodology, and caveats, in the pages that follow this introduction.

The problem is that this is only 526 complaints, not the over 7,000 complaints made to the PCC in writing in 2010 (according to the Annual Review 2010). Not even the 1,687 complaints about which the PCC made 'rulings' in 2010. As such, it necessarily presents an incomplete picture. Not necessarily an inaccurate one, just an incomplete one.

So where are the other 1,161 complaints about which the PCC made rulings? They have not been published. Or basic details about the full 7,000 complaints? Again, these have not been published.

One could respond, as the PCC has, that releasing all this data is a big ask. Few organisations currently provide such raw data. Moreover, some of this data is private and releasing it would go against the wishes of the original complainant.

In answer to the first, though one can sympathise, many public organisations are now releasing lots of data. Local authorities are now required, for example, to release all spending data over £500. In answer to the second, it is perfectly possible to anonymise the data in such a way that one captures basic details of the complaint without infringing on the privacy of the complainant.

If an organisation does not release the raw data, then at the very least it needs to be clear about the methodology by which its figures were calculated if the public are going to be confident that it is correct. The PCC is not clear about its methodology.

## **PCC does not make clear the methodology by which it analyses the data**

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To give one example of how the PCC is not clear about its methodology and how that lack of clarity has a substantive impact on its measures of success: the PCC claims that it deals with complaints in an average of 32.8 days. That is a



very precise figure. It is a figure that must be based on data. Yet, when we tried to recreate the analysis using the 526 resolved and adjudicated complaints we came up with 106 working days – over three times the PCC number. We worked this out by calculating the length of time between the date on which the offending article was published and the date the PCC put the resolution of the case up on its website.

The PCC objected to this, saying that people often did not complain until a week or possibly even longer after the article was published. Plus, the PCC sometimes did not publish the resolution on its website for a few weeks after it was actually resolved.

OK, we responded, so how does the PCC come up with the 32.8 figure? After speaking to them at length, we discovered that the PCC uses its in-house database and bases the figure on how long it takes to deal with all 7,000+ complaints. In other words, not just those complaints that fall within its remit, or those that it investigates, but everything that comes through the door. This includes all those it rejects the minute they come in, those which are never pursued, and those that it passes on to other organisations such as the Advertising Standards Authority. These rejected complaints, and those which are not followed up, make up over three quarters of the total number of complaints, severely distorting the average length of time taken to deal with each accepted complaint.

This therefore seems to be an even more unreliable methodology than our own, and guaranteed to give a falsely positive impression of how quickly the PCC is able to deal with actual complaints.

## **PCC is not consistent in its definition of the data**

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When a complaint comes through the door about a published article(s), as long as it falls within the PCC's remit, the organisation deals with it in one of three ways:

- It investigates the complaint and decides it does not warrant, or can be dealt with without, mediation
- It negotiates a joint settlement between the complainant and the news outlet
- It comes to its own judgment about whether or not the complaint should be upheld against the news outlet.

This does not, of course, take into account the pre-publication advice and help that the PCC provides, or the anti-harrasment help.

The way it deals with complaints could then be defined as: investigated and resolved, mediated and resolved, adjudicated. Only this is not how the complaints are defined. The complaints are defined as: complaints received; complaints about which rulings are made; complaints that raised likely breaches of the Editors' Code of Practice or 'had merit'; complaints that represented no breach of the Code; complaints that were resolved amicably; complaints where sufficient remedial action was offered; complaints that were adjudicated. This does not include the breakdown of complaints that were considered to be out of the Code, were made by third parties (which are sometimes accepted but not always), were not made in time, were not pursued, or were felt to have no case under the code.

Many of these numbers do not correlate with one another.

## **PCC does not have adequate processes to capture the data**

One of the most obvious and important ways that the public can evaluate the success of the PCC is by looking at its success in securing prominent corrections and apologies in news outlets. Indeed this is what many people most want when they first make a formal complaint.

The PCC talks regularly about its success in securing such prominence. In 2010, the PCC annual review states, **69.7%** 'of corrections negotiated by the Commission were published on the same page or further forward than the material under complaint'.

However, the PCC does not release any of the data on which this, and similar, percentages are based.

For this reason we tried to do it ourselves. We took the upheld adjudications – which represents the PCC's greatest sanction – and went to the British Newspaper Library to see how the prominence of published adjudications compared with the prominence of the original article.

As you can see from our analysis later, in most cases the published adjudication was not nearly as prominent as the original article.

The PCC criticised our analysis – as did third party auditor Full Fact – not for not being accurate but for being incomplete. They pointed out that there were upwards of 300 corrections and apologies negotiated by the PCC in 2010, and that upheld adjudications – though very important – only made up 19 of these. Fine, we said, show us the data or methodology behind the PCC's 70% figure so we can check it for ourselves.



Our expectation was that, each time a correction or adjudication that was negotiated by the PCC was published, the organisation logged it somewhere, perhaps even keeping a photocopy or scan for its records.

It turns out, we discovered in conversation with the PCC, this is not how it is done. Each year, when the figures for the Annual Report have to be totted up, a member of the PCC grabs the 300-plus printed newspapers in which apologies and corrections have been printed (which includes corrections and apologies made as part of resolved complaints). He goes to the board room and then, with pencil in hand, does his best to jot down the page number where each was published. He only has a few hours so it has to be done quickly, and then he adds up the figures on a calculator.

These figures may be accurate, they may not be. It is not possible to tell since they are recorded in pencil on an A4 pad somewhere in the PCC. Either way, it is an entirely inadequate way of capturing a figure that is central to measuring the success of the PCC in negotiating apologies and corrections.

## Conclusion

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Our analysis is about the PCC's statistics, not about how it deals qualitatively with individual complainants, or about how it deals with wider regulatory issues. As such it is not a criticism of the PCC's work on behalf of individual complainants – many of whom have praised the PCC's diligence and assiduousness. Nor is it about broader questions such as how self-regulation deals with problems like phone hacking.

It is an analysis of the PCC's numbers: the way they are captured, the way they are defined, the way they are published, and the way they are analysed. These numbers are important because they are, to the industry and the outside world, critical measures of the PCC's success. They are also regularly used by the PCC to illustrate the state of standards in the industry and as evidence of its own effectiveness.

We understand the PCC is in the process of rebuilding its website (though this has been de-railed slightly by the upheavals this year). This rebuild includes a review of the way in which data is captured and released. It gives the PCC an opportunity to be genuinely open, to be properly consistent, and to capture data in a credible way.

Either way, if the current system of press self-regulation wants to be taken more seriously than in addition to any other reforms made, the PCC – or its future equivalent – needs to change the way it records what it does, and how it makes those records public. The current method is not rigorous or

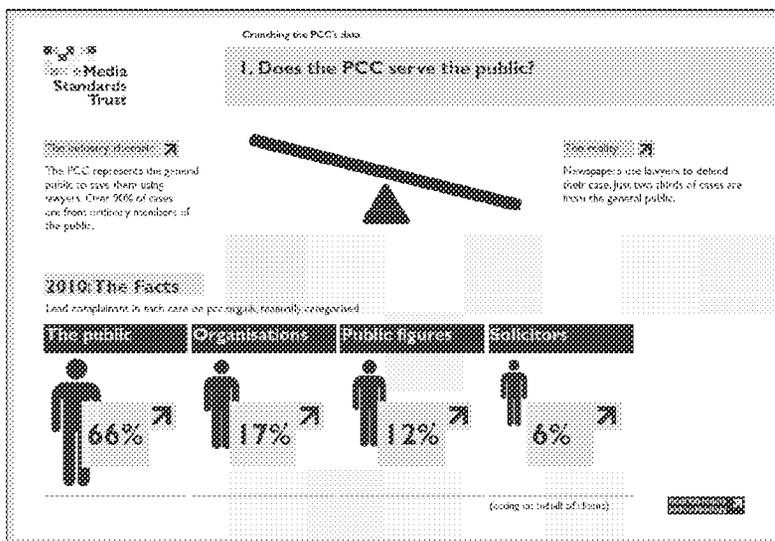
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transparent, and makes it impossible for anyone, including the PCC itself, to do a reasonable analysis.



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## I. Does the PCC serve the public?



### The evidence

This slide tests the PCC's claim that the public represent over 90% of those who use its services. The percentages have been calculated based on analysis of the data published on the PCC's website. The Media Standards Trust has categorised every 2010 complainant identified on the PCC site as either: a member of the public, a public figure, or an organisation. The methodology and supporting evidence are set out below.

### Claims to be tested

1. The PCC's website claims that it is "specifically designed" to help members of the public (though the constitution of the PCC does not articulate on whose behalf it was established to serve)
2. The PCC claims that 94% of complaints in 2010 originated from "ordinary members of the public". However it published no evidence to substantiate this claim

3. The PCC also says (accurately) that you do not need a solicitor to make a complaint to the PCC. This supports its claim to be free. However, many high profile complainants choose to do so.

## **MST methodology**

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The MST has manually coded each case using clear criteria. You can see all the cases and the coding here.

We categorised any of the following as a public figure:

- ☒ a politician (whether an MP, local councillor, MSP, MEP, AM or MLA) or candidate for public office
- ☒ a celebrity/personality who would have a level of public recognition
- ☒ someone who had become a public figure due to widespread media coverage

We categorised as an organisation:

- ☒ anyone complaining in their role as a representative of an organisation
- ☒ a campaign group

We did not categorise as a public figure anyone who would ordinarily be considered a member of the public were it not for the publicity they had attracted as a result of the newspaper coverage, e.g.:

- ☒ a woman/man caught up in the private life of a public figure
- ☒ a family who had been involved in a high profile media story

## **Why the difference in percentages?**

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There could be a number of different ways the PCC calculates the origin of a complaint. For example, it may calculate the total number of complaints from lots of different people about the same article. In other words, if 50 non-public figures people complain about a single article, all 50 may be counted.

However, this would be inconsistent with its other analyses because elsewhere it aggregates multiple complainants about a specific complaint. The PCC publishes no annual statistics about which newspapers attract the most complaints. So calculating the statistics in this way puts the newspapers and system of self-regulation in the best possible light.

Throughout 2010, the Media Standards Trust also found that complaints from an organisation were usually referred to by the name of the person who made the complaint. For example, when the communications director of First Group



complained about a series of inaccurate articles about the company, he was listed as a complainant personally, rather than the company.

## Commentary

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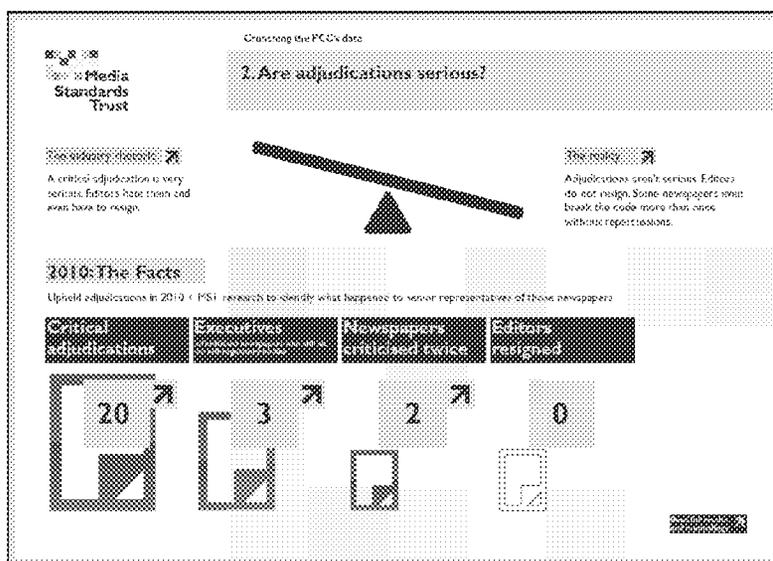
The PCC frequently states that most of its work is done on behalf of ordinary members of the public. This is an important measure of its success because it emphasises the accessibility and inexpensiveness of self-regulation as opposed to the inaccessibility and expense of the legal system.

Accessibility will be an even greater measure of success in the future when reforms to civil litigation costs make the legal route less accessible to ordinary people.

This analysis shows that though the majority of complainants are ordinary people, the figure is considerably lower than the 95% claimed.

The significance about the role of solicitors is that complainants are discouraged from seeking representation and are not allowed to make their case in person to the commission. In contrast, newspapers' positions are usually represented by the head of legal affairs for the newspaper group. That person is usually a trained solicitor. The system is therefore inequitable.

## 2. Are adjudications serious?



### The evidence

This slide tests the repeated claims of those within the press that adjudications are taken very seriously and are much more effective than other possible sanctions, such as fines. To test these claims the Media Standards Trust has analysed the data published on the PCC's website and contacted news organisations that have been censured by the PCC. The methodology and supporting evidence are set out below.

### Claims to be tested

1. Rebekah Brooks (then Wade), speaking to the culture media and sport select committee in 2003, said that "the threat of a complaint being upheld by the PCC is what terrifies editors -- not particularly a financial sanction; it is the actual adjudication' (Q.429). Andy Coulson, giving evidence alongside Wade, said that an adjudication 'carries an enormous amount of weight and far more significance than a fine' (Q.428).



2. The editor of the *Southampton Daily Echo* told a public meeting (organised by the PCC) that an adjudication was very serious and newspaper editors lost their jobs for breaching the code.
3. The PCC's website states: "As most editors (and, increasingly, many journalists) have adherence to the PCC Code written into his or her employment contract, a serious breach can have severe consequences in terms of their future employment."

## Methodology

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Critical adjudications taken from PCC website (here: <http://pcc.org.uk/cases/adjudicated.html>).

John Witherow (editor of *The Sunday Times*) sits on Editors' Code of Practice Committee, Richard Wallace (editor of the *Daily Mirror*) sits on Editors' Code of Practice Committee, Neil Benson (Editorial Director, Trinity Mirror Regional Newspapers) on Editors' Code of Practice Committee).

The Media Standards Trust contacted all those news outlets that were censored in 2010 to ask if the editor had resigned following censure by the PCC.

## Why the difference?

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The PCC does not publish any evidence to support its claims that a breach of the code can have serious consequences for editors or journalists. In fact, the PCC talks of its 'powers' but it does not have 'powers' as such. It can request that a newspaper publishes an adjudication but if it were to refuse, can only restate its request. It may have moral authority, but the PCC has no specific powers.

## Commentary

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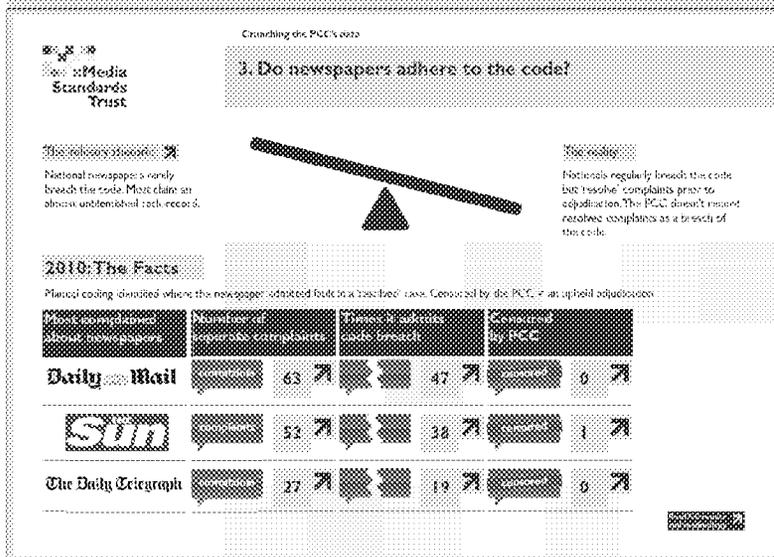
The *Sunday Times* and the *Sunday World* each had two critical adjudications made against them in 2010 and in neither instance did the newspaper editor resign. In the case of the *Sunday Times*, its editor John Witherow continues to sit on the body that writes the code of practice – the editors' code committee.

In some of the most serious breaches of the code in recent years, the editor has not resigned or been fired. For example Peter Hill, the editor of the *Daily Express*, was responsible for the coverage of the McCanns which led to a major libel payout by Express newspapers after the court found over 100 articles published to have been grossly libellous. Hill remained a member of the commission throughout the period of coverage, and even after the court had

found the articles libellous. When asked by a Parliamentary Select Committee whether he had been reprimanded for the coverage Peter Hill said 'I have reprimanded myself' (Q.644, 2009).

The *Daily Mail* admits to more breaches of the code than any other newspaper and yet its editor is chairman of the Editorial Code of Practice committee that writes the Code.

## 3. Do newspapers adhere to the code?



### The evidence

This slide tests the claim that few newspapers actually breach the editorial code – as shown by the small number of upheld adjudications. In order to do this the Media Standards Trust has analysed data published on the PCC's website and identified cases in which news organisations have resolved complaints such that the breach was not recorded. The methodology and supporting evidence are set out below.

### Claims to be tested

1. There were 482 cases which were resolved in 2010. Just 44 of these went to adjudication, (upheld, not upheld)
2. The editor of the *Daily Mail* (and chairman of the code committee) told the culture media and sport Select Committee that his

newspaper had rarely had to print an adjudication. He drew a clear distinction between adjudications and resolved complaints in the exchange (Q.550, 2009).

3. The PCC does not accept cases which do not fall under its remit because there may have been a breach of the code. Therefore, all resolved cases relate to a part of the code.
4. The PCC rejects some cases where there has not been a breach of the code
5. The PCC's explanation of each resolved case often reveals that the newspaper has accepted that it was in breach of the code – but that it offered sufficient resolution to satisfy the complainant and/or the PCC
6. Other case explanations clearly record that the newspaper does not accept that it has breached the code. By implication, the remainder suggest that the newspaper does recognise a breach
7. The PCC uses resolved cases as part of its 'case law' or precedent when determining how a case should be treated.

## Methodology

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The Media Standards Trust read each case summary published by the PCC. Where the newspaper had 'apologised', 'corrected' or 'clarified' the article it was recorded as a breach of the code. If the newspaper had rejected a breach or explained its actions without any further statement, it was not recorded as a breach. Where there was doubt, it was recorded as such.

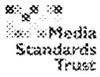
## Commentary

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Newspapers can – and do claim that they respect the code and are rarely formally criticised. Their editors and publishers trumpet their apparent good behaviour in public (for example in front of Commons Select Committees) and hold prominent positions on the self-regulatory system without any apparent hypocrisy.

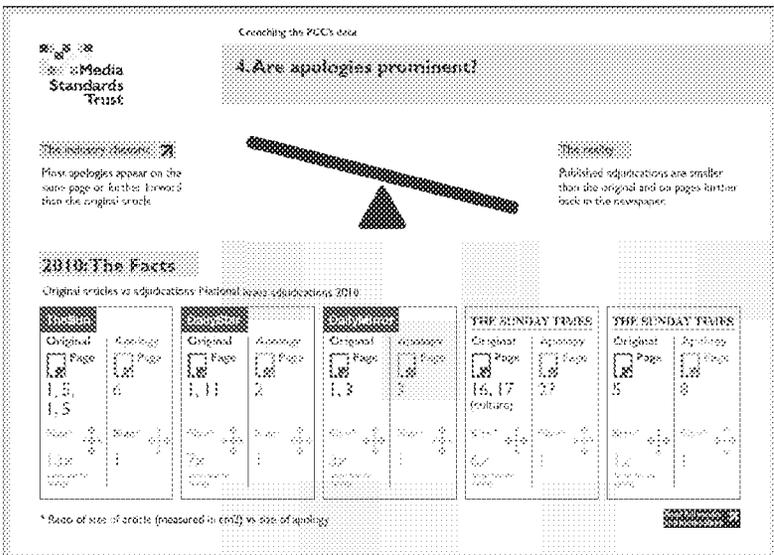
The PCC says it is a regulator but fails to record the vast majority of cases which breach the code. As a result it cannot make any informed observations about whether adherence to the code is getting better or worse (despite frequently claiming that 'things are better'). It makes no criticism of newspapers that frequently breach the code in relation to a particular story or issue but resolve cases in order to avoid censure.

This is at the heart of the distinction between what the PCC says it is – and what it actually is. Until September 2011 the PCC claimed to be a regulator on a regular basis when in fact it is clear that the PCC is not a regulator. Rather it



is a complaints ombudsman, unable to take a wider perspective on the performance of the industry.

## 4. Are apologies prominent?



### The evidence

This slide tests the claim that apologies and corrections are normally published as or more prominently in the paper as the original article. In order to test this the Media Standards Trust has used data published on the PCC's website and supplemented this with original research in the British Newspaper Library at Colindale. The methodology and supporting evidence are set out below.

### Claims to be tested

1. The PCC claims that **89.4%** of corrections negotiated by the PCC are published no later than two pages further back than the material complained of or in a dedicated corrections column. It provides no evidence to support this.



2. It says that this situation has changed for the better in recent times but provides no evidence to support this
3. The PCC argues that the success of the current situation on due prominence means that there is no need to consider a case for 'equal prominence'

## Methodology

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- ❖ The MST went to the newspaper libraries at Colindale to find the original articles and adjudications of 2010. There is no single way of measuring the impact of a newspaper article so the MST opted for the easiest: measuring the space that the article occupied on the page
- ❖ Due to copyright laws, the MST is unable to reproduce the adjudications so instead opted for a graphical representation of how large they are, relative to the original article.

## Why the difference?

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The PCC includes in its 89% figure all corrections and clarifications – not just adjudications. Adjudications are usually shorter than the original article which means they are also likely to be less prominent.

The PCC does not record publicly as a matter of routine on which page the original article appeared and never where the adjudication appears.

## Commentary

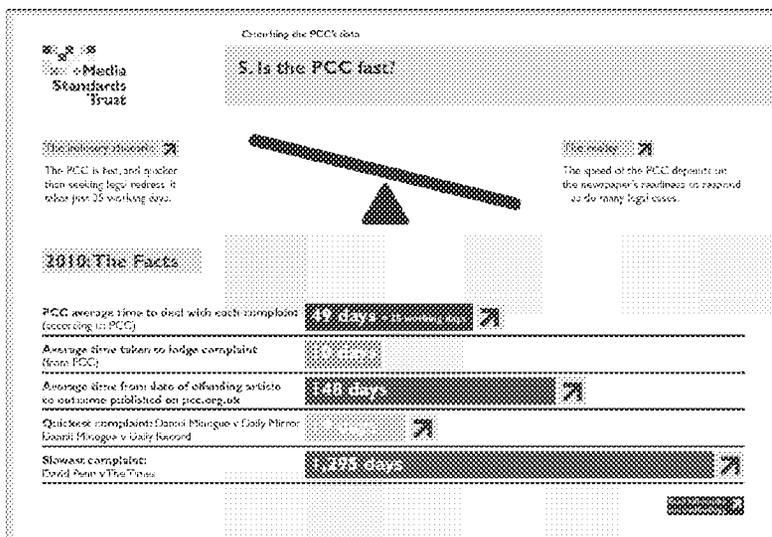
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Adjudications are the most significant sanction the PCC can negotiate. An upheld adjudication is, according to the PCC and editors, taken very seriously. Therefore one would expect that, in contrast with resolved corrections and apologies, upheld adjudications would be given the greatest prominence. Yet, as shown in this analysis they are not. Indeed it would appear, if one accepts the PCC figure of 89% for all corrections and apologies negotiated, that the upheld adjudications are given less prominence.

It is extremely difficult to find any adjudications, apologies or corrections on the front page, particularly in the national press. This is despite complaints made about front page errors. Such errors may be routinely corrected on page 2, but page 2 is known to be less well read than page 3 for example. This approach makes the PCC's statistics look good but is unsatisfactory for the complainant.

Knowing that the PCC's only means of criticising a newspaper is unconvincing makes the case for stronger sanctions even more powerful.

## 5. Is the PCC fast?



### The evidence

This slide tests the PCC claim that its process is fast – particularly in contrast to seeking redress through the courts. Whether or not it is fast depends on your perspective and how you assess the available data. You can judge the numbers for yourself via the MST's database of PCC data at <http://complaints.pccwatch.co.uk>.

### Claims to be tested

1. The PCC says that the average time is around 35 working days, but that many complaints are actually resolved much more quickly than that. However, it provides no evidence to support this view.
2. It says that legal cases can take years which is true. But legal cases can also take hours or a few weeks. Often this depends on how long the newspaper takes to respond to the process before it reaches court.

## Methodology

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We extracted the date of the original article from the PCC's complaints summaries. We then used the date at which the newspaper published a correction (if accessible) or the date on which the complaint resolution was published on the PCC website. Whilst this may not be the actual date the case was resolved, it is the best information available.

## Why the difference?

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- ❧ The PCC does not publish enough evidence to be able to assess its figures accurately
- ❧ People often do not complain on the same day or even the day after the article is published. Often they do not complain until a week or more after the article is published. The PCC does not make the date of the complaint publicly available
- ❧ The day on which the PCC publishes the case on its website does not necessarily match with the date on which the newspaper publishes the correction or adjudication. The PCC does not make the date of the correction, adjudication or resolution publicly available
- ❧ Not all case summaries published by the PCC reveal the date of the original article, making it more difficult to substantiate the PCC's claim
- ❧ The PCC calculation is based on all complaints, including those that are rejected as soon as they are made.

## Commentary

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It is misleading to suggest that the PCC is necessarily faster than seeking legal redress. It may be faster but the data on which this claim is based is misleading.

The PCC staff undoubtedly work very hard, and usually 7 days a week. However, its resources have not changed significantly in the last 10 years despite the expansion of its scope and the increase in the amount of content produced by newspapers in the last 10 years (video, blogposts etc).

## Full Fact assessment of MST analysis

Conducted at the request of the MST, June 2011

### Introduction

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The Media Standards Trust (MST) have produced a piece of research challenging some of the claims made by the Press Complaints Commissions (PCC) about the performance of the newspapers' regulator.

The research looked at the following issues: who uses the PCC; how seriously it is taken; the prominence of newspaper corrections and; the length of time taken to resolve complaints. The findings are published by the MST in the form of a set of slides.

The MST have provided Full Fact with the sources behind the claims made on these slides, in order to check the validity of their arguments.

### The checking process

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Due to the nature of this assessment work, all of the sources revolve around data compiled by the PCC. However not all of this is published.

The Media Standards Trust provided links to all the available sources used to reach their conclusions, and explained where the gaps were.

Our work comprised of going back to these sources, and assessing whether they could justifiably support the conclusions made in the Media Standards Trust slides.

### Findings: Does the PCC serve the public?

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*MST Claim: "Newspapers use lawyers to defend their case. Just two thirds of cases are from the general public."*

Combing through all complaints taken up by the PCC in 2010 the MST have produced a searchable database, which can be grouped by type of complainant.

Using this database the PCC claim that over 90 per cent of cases "are from the general public" is challenged. Instead an alternative figure of 66 per cent of cases being from the public is offered.

Going over the categorisation of complaints, it can be seen that the figure of **66** per cent is not completely indisputable.

This is largely because of the difficulty in how a member of the public is identified in these cases. The definition used by the **MST** of a member of the public is a reasonable one, but does make for some possible pitfalls.

For example, the cases where members of the public have complained to the **PCC** through a lawyer are excluded. One could equally argue that by choosing to use a lawyer a person does not cease to be a member of the public, they simply become a member of the public who has taken the extra expense of employing a lawyer.

Likewise there are some cases in the organisations sections where it is debateable whether the organisation is not in fact just a member of the public.

For example pub landlord Leo Mullane complained that the **Harrow Times** had inaccurately reported that a stabbing took place in his pub.

Likewise Tony Bennett, Secretary of the Madeleine Foundation, complained about newspaper reports that he was being investigated for fraud. Though questions were raised about his organisation, Mr Bennett was accused of fraud in a personal capacity. Thus his complaint seems more like a complaint from the member of the public.

However, even if we include all the cases we deemed borderline (see Appendix) the proportion of resolutions that began as complaints from members of the public may be around **70** per cent – much closer to the **MST** figure than the **94** per cent suggested by the **PCC**.

This still does not mean that the **MST** estimate is more accurate than the figure from the **Press Complaints Commission**.

Indeed it seems that the **94** per cent figure must be calculated in a different way by the **PCC**, a possibility that is acknowledged by the **MST**.

However, approaching the calculation in a different way (i.e. working out which of the **6** per cent of the **502** resolutions the **PCC** counted as non-members of the public) there are still difficulties. It is obvious that the **94** per cent is not worked out on the basis of cases resolved.

Cases would be excluded as being from members of the public if they were from an **MP**, a **Peer**, or if the author had otherwise heard of the complainant. Under this imperfect measure **31** cases are counted – just over **6** per cent of



resolutions.

But this excludes complaints from councillors, less well known celebrities, and complaints made on behalf of an organisation.

Instead it seems likely, as the MST suggests, that it is worked out by number of complaints made, which could include cases not covered by the PCC's remit or cases where there are multiple complaints from the PCC which taken forward as a single complaint.

Without more details it is impossible to say which take on the situation is more accurate, but the figures from the MST are at least authenticable.

However the quote from the slide could be rephrased as "Newspapers use lawyers to defend their case. Just two thirds **of cases resolved** come from the general public."

Likewise the claim attributed to 'industry rhetoric' is phrased "Over 90 per cent of cases are from ordinary members of the public."

The [Press Complaints Commission website](#) talks of complainants rather than cases, so this should be made clearer on the slide.

## **Findings: Are adjudications serious?**

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*MST claim: "Adjudications aren't serious. Editors do not resign. Some newspapers even breach the code more than once without repercussions."*

The claim about action taken after adjudications is based on information published by the PCC but compiled by the MST. Looking through these figures, the editors and executives listed all sit on the Press Boards claimed, with John Witherow and Neil Benson on the [Editors Code of Practice Committee](#) and John Fry on the [Press Board of Finance](#).

The claim that two national papers have had two adjudications against them without editorial resignations is accurate.

Despite this, it would be useful to those presented with these figures to briefly explain what these adjudications were about, particularly those against papers with executives/editors on the aforementioned boards, so that readers can reach their own opinions about how serious these the breaches were.

## **Findings: Do papers adhere to the code?**

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*MST claims: "Nationals regularly breach the code but 'resolve' complaints prior to adjudication. The PCC doesn't record resolved complaints as a breach of the code."*

Using the database to group the complaints by newspaper, the numbers recorded for the 'breaches' of the Editors' Code of Practice check out. However, as with defining a member of the public there is a question about how a breach of the Editors' code is defined.

The MST viewed resolutions as a breach "where the newspaper had 'apologised', 'corrected' or 'clarified' the article."

Naturally most people would consider a case where a paper had to print a correction to a substantially inaccurate story to represent a breach of the code.

However the figures could be disputed by taking account of the following section of the Editors' Code of Practice:

"i) The Press must take care not to publish inaccurate, misleading or distorted information, including pictures.

ii) A significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence, and - where appropriate - an apology published. In cases involving the Commission, prominence should be agreed with the PCC in advance."

This means that printing an accuracy is not itself a breach, the press must simply take care not to publish them. Should inaccurate information appear despite this care, it must then be corrected.

For this reason it would be possible to challenge the figures by arguing the 'breaches' identified by the MST are not counted as breaches by the newspapers or the PCC. For the figures to have added credibility this point should be addressed.

This only appears to apply to cases where the first clause of the code, that relating to accuracy is the grounds for complaint against a newspaper. So cases relating to the other aspects of the code would avoid this point.

However accuracy is the issue at stake in many of the complaints listed as breaches by the MST. For instance it is classed as one of if not the only issue raised in all 19 of the 'breaches' admitted by the Daily Telegraph.

A further argument could be made to challenge the notion that newspapers



“rarely breach the code”. This is that as a responsive - rather than proactive - regulator the PCC does not monitor all output of the publications covered by the code, taking action on its own initiative when breaches are spotted.

Rather, most breaches are dealt with following complaints. This means there are potentially a significant number of breaches that are not recorded in PCC statistics or anywhere else. In turn, this makes claims by newspaper editors that the code is rarely breached hard to properly substantiate.

## **Findings: Are apologies prominent?**

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*MST Claim: “Published adjudications are smaller than the original and on pages further back in the newspaper.”*

This claim is based on research from MST whereby the page area and number for each apology printed following an adjudication was compared to the original story.

The claim suffers from a lack of data for two reasons. Firstly, the research was only carried out for adjudications, a small proportion of overall cases resolved by the PCC. Around 500 cases were resolved in 2010, whereas the table provided to Full Fact by the MST only looked at 19 cases.

Furthermore because of some of the original papers not being available, full analysis was only possible for 11 cases.

Of these 11 cases, all of the adjudications were published further back in the paper than the first appearance of the original story. In one case the findings found that the area of the paper dedicated to the adjudication was larger than the area taken up by the original article.

Based on this limited sample it appears that when newspapers apologise or correct their reports as a result of PCC intervention, the apology/correction is smaller and further back in the paper.

But since it is based on 11 pieces of complete data this is only a meaningful proportion (58 per cent) of adjudications against newspapers, and is only a tiny fraction of the total cases resolved. Because most of those for which no data is available are local papers, the presentation of the figures on the slide can still be considered representative of the how national newspapers responded to adjudications.

Even if data were available for the other adjudications it would still be the case the majority of adjudications were published further back in the paper than the

first section of the original report.

The case could be made that as adjudications represent more serious action, that wider conclusions can be drawn about the system.

However, without further information about resolved cases it is difficult to say that the PCC claim on prominence of corrections is categorically wrong.

Given our recent experiences at Full Fact, when a correction not printed on the same page as the original story was the published, the correction was republished, we would also want to be 100 per cent certain that this had not happened in the above cases.

One minor point is the apparent disagreement between the adjudications grid supplied by the MST and the slides. According to the slide, the correction published by the Sunday Times following a piece in the culture section appeared on page 27. In the grid this is listed as appearing on page 19.

It is also worth making clear the the PCC do not appear to make any claims about the size of corrections/apologies printed as a result of its mediation.

## **Findings: Is the PCC fast?**

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*MST Claim: "The speed of the PCC depends on the newspaper's readiness to respond – as do many legal cases."*

The multitude of ways in which the time taken to resolve PCC complaints could be measured makes any assessment of which is the most valid figure difficult. It depends on when the PCC define a case as concluded, when a) a course of action agreeable to paper newspaper and complainant is agreed, b) The remedial action is taken by the newspaper or c) the resolution of the complaint is published on the PCC website.

Given the problems with data availability it is understandable that the MST have used the last of these possibilities as the point to mark the conclusion of a case. As the notes we were provided with explained, the publication of the resolution on the PCC website is "as likely to be before the correction appeared as it is to be after the correction appeared."

From our experience it has always been after the correction was printed, sometimes by several weeks. For example the Daily Mail published a correction on 12 May, but the resolution was not published on the PCC website until 3 June.



This demonstrates why this way of measuring the length of time to resolve complaints could inflate the numbers.

We are also concerned that the average could be inadvertently skewed for another reason. Given the length of time the longest complaint to be resolved by the PCC is classed as 1,295 days for a complaint made in 2006, it needs to be clarified whether this complaint, and any others initiated in earlier years, is included in the MST's figure of 148 days between publication date and outcome being published on the PCC website.

Clearly if this case has been included in the average for 2010, it will have skewed the 2010 average. Since the the average is for 2010, including a complaint lodged in 2006 is contentious if indeed it has been done.

Both MST and PCC need to clearer on this point.

There is another problem with such lengthy cases – it is unclear how much time elapsed before the complainant went to the PCC. In December 2010 the Guardian amended an article following a complaint by Mr Gary Cressman, when the article originally appeared in December 2009. The explanatory notes state that Mr Cressman complained to the paper prior to contacting the PCC, so it is not clear how much time had elapsed before Mr Cressman contacted the PCC.

Measuring the length of complaints such as this from the date of publication again serves to inflate the figure, even if it is a necessary by-product of the lack of further details.

The accompanying notes to the MST slide argue: "It is misleading to suggest that the PCC is necessarily faster than seeking legal redress."

While the Commission may have measured the complaints process in a way that makes the resolution time seems shorter than the way it is calculated from publicly available information, no analysis is offered of how long one could expect legal proceedings over similar cases to take.

Because neither the PCC nor the MST have offered a take on this, it cannot be substantiated that the PCC system is quicker, yet it is also impossible, going off these figures to say the PCC claim is "misleading."

## Conclusion

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Our analysis found no significant flaws in the research produced by the Media Standards Trust.

The points we raise in the above analysis fall into two camps.

- ☒ Definitions, particularly whether the definition of a member of the public, and a breach of the code would be universally accepted
- ☒ Lack of data, particularly on the issue on placement of adjudications.

Neither of these issues serves to undermine the conclusions drawn by the MST, but they do pose problems for how much of a direct challenge they represent to the claims of the PCC

However this is a necessary result of the limited amount of information that is currently published.

It is only when this data is published that stronger conclusions can be reached about how much of a challenge these findings represent to the claims made by the PCC.

## Appendix

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List of cases where categorisation of people not listed as members of the public could be disputed:

Roger Mitchinson

Pauline Brierley

Tony Bennett

Elizabeth Prudhoe

Leo Mullane

Mrs MF Brown

Stephen Dosman

A woman

Philip Baum

Mark Chapman

Philip Bale

Ravin Soobadoo

Julianne Barradale & Liz Church

Veronica Watkineo

In addition, the nine cases where a member of the public used solicitors to complaint to the Press Complaints Commission.



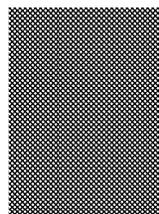


## PCC Statistics

### **A critical analysis by the Media Standards Trust**

An analysis of the measurements of success of the PCC based on its own statistics.

Research undertaken in the first half of 2011 and not published due to external developments in July 2011.



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