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## e-Newsletter

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## Rules and Procedures resolving complaints made easier

The Press Complaints Commission of Sri Lanka (PCCSL) from October 01, 2012 introduced a new user-friendly Rules and Procedure mechanism to resolve complaints against newspapers, magazines, journals and online publications thereof. The new process will effectively and speedily at no cost resolve complaints amicably between the complainant and editor.

After months of deliberations, the new Rules and Procedure came about. The process is in five stages: A. Making a complaint, B. The role of the Council, C. Conciliation, D. Mediation and E. Arbitration.

### A. Making a complaint

Any person who reasonably believes that he or she or another person/s have been adversely affected by any published item including a news story, article, photograph and/or graphic (published item), that appeared in a newspaper or a magazine or a Journal or an Online edition thereof published in Sri Lanka may make a complaint to the Press Complaints Commission of Sri Lanka (PCCSL).

The process begins with filling a Complaint Form (see box) and attaching the relevant published item together with a letter stating the complaint. Any published item/s in an online edition (website) can either be downloaded and a print out obtained and/or forwarded to the PCCSL if such published item is available on the online edition and or traced from any archive of the online edition or any link to that online edition.

The complainant may request the PCCSL to settle a dispute by conciliation, mediation or adjudication by arbitration.

### B. The role of the Council

The Dispute Resolution Council (DRC) shall accept a duly received complaint only if it deems, at its complete discre-

tion, that the published item referred to has breached the Code of Professional Practice of the Editors Guild of Sri Lanka.

### C. Conciliation

Where a complainant has, along with the complaint, made a request to the PCCSL that the matter be settled by conciliation, the Council shall refer such request to the Chief Executive Officer (CEO) for conciliation. A settlement agreed upon by the parties may include a correction and/or apology and/or a right of reply.

### D. Mediation

Where a complainant has, along with the complaint, made a request to the PCCSL that the matter be settled by mediation, the Council shall refer such request to the CEO or three members of the Council for mediation.

### E. Arbitration

The request made to the PCCSL by a complainant to arbitrate a dispute between himself and a member of the PCCSL, arising from any publication in the press of Sri Lanka, or the consent of the complainant to any referral for arbitration made by the Council, together with the deemed consent of the member of the PCCSL, shall be deemed to be an arbitration agreement within the meaning of the Arbitration Act

No. 11 of 1995 between the said member of the public and the particular member of the PCCSL to refer such dispute for resolution by Arbitration.

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இலங்கை பத்திரிகை முறைப்பாட்டு ஆணைக்குழு  
Press Complaints Commission of Sri Lanka

**COMPLAINT FORM**

1. Name in Full: (Mr/Mrs/Organization)  
(If 3rd Party Complaint give relationship)

2. National Identity Card/Passport/Driving License number (please attach photo copy)

3. Address:

4. Telephone: Mobile: Fax:

5. Name of Newspaper/Magazine/Journal/Online publication:

6. Date of publication:

7. Page number/link:

8. Headline:

9. Having read the Code of Professional Practice, I am of the view that the following clause/s has been breached (Give clause numbers only):

10. I have read and understood the Rules and Procedures of the Press Complaints Commission of Sri Lanka and prefer that the dispute be settled by Conciliation/Mediation/Arbitration.

I/we enclose herewith:  
(a) A photocopy/print out of the newspaper/article/magazine/journal/online publication against which the complaint is hereby made; and (b) the complaint based thereon.

I/We have read and understood the Rules and Procedures which will be followed by the PCCSL in addressing the complaint made hereby and confirm that I/we agree to the Rules and Procedures of the PCCSL.

I/we acknowledge that the settlement arrived at consequent to the conciliation/mediation/arbitration of a dispute shall be final and conclusive and shall not be challenged in a Court of Law, except on a procedural defect.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

NOTE: A claim may be made by a third party which falls into one of the categories specified below. The categories thus specified are not exhaustive. The PCCSL may at its complete discretion, accept or reject any third party complaint.

The categories for third party complaint are:  
Environmental Groups, Animal Welfare Groups, Adults on behalf of minors, an immediate family member of an accident victim, an immediate family member of a person in custody and anyone complaining on behalf of another provided the prior written permission of the person personally affected is obtained.

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# UK PCC Statement on Prince Harry's Photographs

At its regular meeting, the Press Complaints Commission of the United Kingdom discussed the issues raised by photographs of Prince Harry taken in Las Vegas that have been published widely online and, to a limited extent, in the UK press. The Commission received around 3,800 complaints that the publication by The Sun newspaper of these photographs raised a breach of Clause 3 (Privacy) of the Editors' Code of Practice. The Commission is in continuing dialogue with Prince Harry's representatives but as yet has not received a formal complaint.

The Commission would be best placed to understand these issues - including the circumstances in which the photographs were taken - with the formal involvement of Prince Harry's representatives. In addition, an investigation by the Commission, without consent, would have the potential itself to pose an intrusion.

The Commission is grateful to the many members of the public who have contacted it to express concerns about The Sun's coverage but has concluded that it would be inappropriate for it to open an investigation at this time for the reasons above.

It wishes, however, to place on record the actions it has taken.

On August 22, the Commission issued an advisory notice drawing to editors' attention the concerns of Prince Harry's representatives, on privacy grounds, about the potential publication of the photographs in the UK press. The advisory notice system provides a means to help individuals who find themselves at the centre of a news story to communicate their concerns that the Editors' Code of Practice is being breached or may be breached in forthcoming coverage. These notices do not prohibit publication; they help editors to make well-informed decisions about how to cover the news in a way that meets their obligations under

the Code. In this instance, as always, the decision whether or not to publish remained with the editor of each publication.

In addition, as the story was unfolding the Commission provided advice, on request, to editors about the relevant issues under the Code. This noted the terms of Clause 3 of the Code and, in particular, Clause 3 (iii), which states that it is "unacceptable to photograph individuals in private places without their consent" and which defines private places as "public or private property where there is a reasonable expectation of privacy". The Commission recognises exceptions to the terms of Clause 3 where publication can be shown to be in the public interest. The Code also requires that the Commission "consider the extent to which material is already in the public domain, or will become so". Publications were reminded that they would be required to justify any decision to publish should the Commission later undertake a formal investigation.

It would be wrong to pre-empt the conclusions the Commission might reach were a complaint to be pursued. Nonetheless, the Commission notes that the question of how to apply the terms of Clause 3 (Privacy) in relation to material that is freely available on the internet is one that it has faced on a number of occasions in recent years, including in the cases of Mullan, Weir & Campbell v Scottish Sunday Express (2009); A Woman v Loaded (2010); Minogue v Daily Mirror/Daily Record (2010); and Baskerville v Daily Mail/The Independent on Sunday (2011). In each instance it reached a decision only after a detailed examination of the facts of the case.

The Commission proposes to publish guidance for publications on these matters, drawing from its decisions on previous cases.

(Courtesy: UK PCC – September 06, 2012)

## Board of Directors PCCSL

Mr. Kumar Nadesan (Chairman), Mr. Nimal Welgama, Mr. Sinha Ratnatunga, Mr. Manik de Silva, Mr. N. M. Ameen, Ms. Seetha Ranjanee, Mr. Siri Ranasinghe, Mr. Sundara Nihathamani de Mel, Mr. G. Koththigoda and Prof. Ajantha Hapuarachchi.

## PCCSL Secretariat

Mr. Sukumar Rockwood, CEO and Complaints Officer English Print Media, Mr. Kamal Liyanaarachchi Complaints Officer Sinhala Print Media and Mr. Ameen Hussain Complaints Officer Tamil Print Media.

## **UK PCC censures local newspaper for insensitive treatment of man's medical condition**

The Press Complaints Commission of UK has upheld a complaint against the Halifax Courier under Clause 5 (Intrusion into grief or shock) of the Editors' Code of Practice after it published an article about a man with a terminal condition headlined "Crossley tycoon: I'm dying".

The complainant has the condition malignant mesothelioma. The article reported that he had initiated legal proceedings seeking compensation from his former employer, alleging that it had failed to protect him from exposure to asbestos. The complainant contended that the headline was insensitive and inaccurate. He said he had not used the words "I'm dying" to the newspaper or in his legal claim; although his condition is terminal, he considers himself to be "living with mesothelioma".

The newspaper apologised privately to the complainant for any distress it had caused but defended its coverage on the basis that the headline was an accurate summary of the man's legal position, the details of which were already in the public domain. It noted that it had not used quotation marks in the headline. The Commission emphasised that this was a "difficult and finely balanced case". It acknowledged that the newspaper was entitled to report on the legal

claim, including the complainant's prognosis, and it accepted that the use of a first-person summary in a headline is a "legitimate technique". Nonetheless, it concluded on this occasion that "using the first person, in the headline, as a means to report the complainant's prognosis in this manner could not be considered as handling publication sensitively". The complaint under Clause 5 was upheld.

The Commission did not uphold the complaint under Clause 1 (Accuracy), finding that readers would not have been misled as to the factual position by the article taken as a whole.

Charlotte Dewar, Head of Complaints and Pre-publication Services said: "As the Commission noted in its adjudication, this was a particularly hard case. The newspaper was undoubtedly entitled to report on the legal claim, and the Commission accepted that it had not intended to cause distress to the complainant, but it ultimately decided that the headline did not meet the Code's standard that in such cases publication must be "handled sensitively". This ruling exemplifies the need for editors to take particular care when reporting stories of such sensitivity, including over headlines".

*(Courtesy: UK PCC – Oct 05, 2012)*

## **Ninth Annual General Meeting of the PCCSL**



*The ninth Annual General Meeting of the Press Complaints Commission of Sri Lanka (PCCSL) was held on October 02, 2012 in the Auditorium of the Sri Lanka Press Institute (SLPI). Photo on left: PCCSL CEO Sukumar Rockwood presents the Annual Report while PCCSL Chairman Kumar Nadesan and Ms. Oshadi Vidanapathirana, representing Corporate Services (Private) Limited, Secretaries look on.*

*Photo on right: A section of the PCCSL members listen with intent.*

# Activities



PCCSL CEO Sukumar Rockwood presents the *Code of Professional Practice* to a visiting Vietnamese Media Delegation in the Board Room of the SLPI on September 17, 2012.

Photo on Right: Members of the Vietnamese Media delegation listen to a further explanation of the Code.



PCCSL Complaints Officer (Sinhala print media) and Promotions Officer Kamal Liyanarachchi addresses Students of Badulla Schools on September 14, 2012. Also in the picture are SLPI, PCCSL and Education Department officials.



Australian High Commissioner H. E. Robyn Mudie. (C) visited the SLPI on August 30. Here SLPI CEO Imran Furkan (L) talks about the 'Colombo Declaration on Media Freedom and Social Responsibility' in the SLPI, Board Room. SLCJ Chairman Waruna Karunatileke (on H.E's left), SLPI Chairman Kumar Nadesan and PCCSL CEO Sukumar Rockwood look on.



A programme for students offering Media Studies was held in Kurnegala on September 28, 2012.

Photo on left: Mr. P.D.R. Vasantha Kumara, Principal, De Mel Navodaya School, Melsiripura (L), Mr.Ranga Kalansooriya, PCCSL Complaints Officer (Sinhala print media) and Promotions Officer Kamal Liyanarachchi and teachers  
Photo on Right: Students listen to the lecture on PCCSL.

