

STATES OF JERSEY



MEDIA RELATIONS: CODE OF CONDUCT (P.100/2010) – AMENDMENT

**Lodged au Greffe on 2nd September 2010
by Deputy R.G. Le Hérissier of St. Saviour**

STATES GREFFE

PAGE 2 –

After paragraph (b) insert a new paragraph (c) as follows –

- “(c) to charge the Privileges and Procedures Committee to take the necessary steps to prepare, for approval by the States, a further Code of Conduct setting out how members of the public who are not journalists working for an accredited media organisation will be permitted, subject to appropriate safeguards, to make visual and audio recordings in a similar manner to those working in accordance with the Code of Conduct for media relations referred to in paragraph (a)”.

DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR

REPORT

Introduction

Unfortunately, emotions have been running high for some time about the content of certain blogsites which comment on Island affairs. They have been roundly criticized for their vitriolic content and perceived campaigns of hate against people who, particularly in the case of public servants, cannot easily answer the allegations therein. However, the contents and workings of these sites should not be confused with sites that seek to engage in political debate. The idea, propagated in some quarters, that there are 2 worlds – one a world of hate-filled sites, and the other a world of responsible accredited media – is fanciful. There is a real danger, excellently expressed in the article found as an Appendix, of suppressing legitimate political debate.

Some of the worst attacks on individuals or groups are found in the so-called accredited media. For example, the Daily Mail continually runs “news” stories about welfare cheats and illegal immigrants. These are undoubtedly issues of concern, but the continuous promotion of such stories fixes the issues in readers’ minds in a highly prejudicial way. That said, unless untruths could be proved, no-one would seek to suppress such stories.

Bias in reporting, the ignoring of other issues – this is grist to the mill. There is some recourse for the aggrieved person or group but it is often weak and, as with the UK press, it comes from a self-regulated body, the Press Council.

Recommendation

Ideally, web-casting is the way forward, as it obviates the need for camera-people to be present at meetings representing different media outlets and possibly interfering with the meeting. For reasons of budget constraints, this may take time. In the interim, I had hoped the Working Party would have identified a good example of a Code of Conduct, invited accreditation from all interested parties and set up an independent group who would have dealt with (hopefully rare) deviations from the Code.

As the commentator says, we are in grave danger of trying to suppress political comment. Ironically, our proposed actions outlined in P.100/2010 will not deal with the issue of the more vitriolic blogsites.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this amendment.

EXTRACT FROM www.planetjersey.co.uk FORUM

POSTED ON 22nd AUGUST 2010 BY SSVOR

FREEDOM OF SPEECH

« on: August 22, 2010, 10:53:10 AM »

Privileges and procedures are looking to bring in under P100/2010 a media accreditation system. It's clear that this is designed to restrict access to and reporting on States proceedings including even public sittings [*sic*] of committees and panels.

Anyone and everyone, irrespective of who, or what they support should be hugely concerned that for the first time in a Western democracy, there is an attempt at direct political control, through legislation, of access to and coverage of the political process.

Below are some thoughts on the issues and arguments:

The Media, Journalism and Journalists

To define "the Media" is relatively straightforward:

- a) a means of communication
- b) a collective term for those involved in the collection and dissemination of material via a medium; often used to describe the aggregated outlets specialising in news and current affairs.

To that extent, the term "Media" is broad and embraces any and every person, group, or organisation involved, or engaged in the gathering, editing and dissemination of material considered to be of interest either to the public at large, or to an identifiable community, or group within society at large. The means of dissemination – radio, print, television, the internet etc – is largely immaterial.

It follows, therefore, that the lone blogger must be considered as much a part of "the Media" as the BBC News Division, the Times newspaper, or a Parish Newsletter.

The purpose of journalism is the gathering, editing and dissemination, or publication through a medium of news, information and opinion deemed to be of interest to the public.

There are, of course, many definitions of journalism, some much narrower than this, but, for our purposes and in view of the issues in hand, we shall assume acceptance of the above definition, or something very similar.

There are, of course, different forms of journalism and different types of journalist. Each different medium demands a different style of journalism. Many journalists are specialists in some field, or other. However, the main point is that journalists produce and publish news, information and opinion for the consumption of others.

While their end products may differ wildly, essentially there is no difference between a journalist covering "hard" news stories for the BBC Ten o' clock News, a journalist

writing an article on crochet for “My Weekly,” a person writing about a local fete for a parish magazine, or an individual writing a personal blog on the internet.

On that basis, again, anyone who practices the gathering editing and dissemination, or publishing of news, information or opinion for public consumption must be considered a journalist and the fruits of their labours journalism.

Concerning the differences between the traditional, accepted, “accredited” media and others:

Journalists are professionals:

There has been a furious and bitter debate going on in the United States over a Senate bill which seeks to give “journalists” protection in Federal Courts when they decline to reveal their sources

However, that same bill seeks to define journalists solely as those employed to gather, edit and disseminate news and information by media organisations (the so-called “professional definition”)

Adoption of this Bill means that non-professional journalists – hobbyists, bloggers, activists etc. would not enjoy the protection it offers.

The “professional definition” is clearly too narrow. It is irrelevant whether or not a person is paid to write, or film, or broadcast material. The purpose of journalism does not include any mention that, in order to be classified as journalism, material must be gathered, edited and published by someone who is paid to do so and/or by a business specifically set up to do so.

Some are employed to practice journalism. Many others practice journalism without recompense, but for what they perceive to be the public good. The output of both groups must be considered as equally valid.

Journalists are trained

Training and professional qualifications cannot be considered a sine qua non when seeking to define a journalist. Many people who contribute regularly to the established media are not “trained journalists.”

Normally, the specialist training undergone by journalists comprises schooling in the relevant craft-skills – writing-style(s), interviewing, audio and video production and editing etc. – coaching in the accepted conventions of orthodox journalism (i.e. journalism as currently practised by “accredited” outlets such as newspapers and broadcast organisations); and components on governmental structure and the Law as it applies to journalism.

Having undertaken such training is, these days, a prerequisite for employment as a professional journalist by one of the established, or mainstream media outlets, but such training is not necessary for the practice of the main purpose of journalism: the gathering, editing and dissemination, or publication through a medium of news, information and opinion deemed to be of interest to the public.

Journalistic training ensures the employer that a candidate for employment has, at least, a grasp of the basic skills and a knowledge of the Law as it applies to, or affects journalism and journalists.

It could be said that journalistic training ensures that the good traditions of journalism are maintained, but, as someone once said: “Tradition is the worst business model in the world.”

It should be noted that – certainly in Great Britain - there is no specific law which defines journalism, or seeks to define the purposes and practices of journalism.

The laws which often apply to journalism are those designed to ensure the proper administration of justice (Contempt of Court, Rehabilitation of Offenders); to prevent a medium from inciting discrimination (The Race Relations Law; the Public Order Act.); and to protect sensitive data concerning individuals (the Data Protection Law).

Everyone, trained, or untrained, professional, or amateur is subject to these laws. Therefore, training, professional status etc. cannot be considered a relevant factor.

If one breaks the law, one must answer for it, irrespective of whether one is a professional, trained journalist, or a hobbyist blogger.

Journalism is regulated:

Citizen Journalism has been criticised inasmuch as it is not subject to any form of regulation, save any internal controls and constraints imposed by the exponent himself, or herself.

The purpose of such regulatory bodies as the BBC Trust, Ofcom and the Press Complaints Commission is to monitor the self-regulation of the media which fall within their ambit, based upon an agreed and published Code of Conduct.

All are very similar. They deal with such matters as:

- 1 Accuracy
- 2 Opportunity to reply
- 3 Privacy
- 4 Harassment
- 5 Intrusion into grief or shock
- 6 Children
- 7 Children in sex cases
- 8 Hospitals
- 9 Reporting of Crime
- 10 Clandestine devices and subterfuge
- 11 Victims of sexual assault
- 12 Discrimination
- 13 Financial journalism
- 14 Confidential sources
- 15 Witness payments in criminal trials
- 16 Payment to criminals

It must be stressed that none of the Codes of Practice currently in force in the traditional media is a legally-binding document.

They are, in effect, followed by agreement and consensus and although penalties for breaches of any of the Codes of Conduct can be severe, ranging from fines to even, the removal of a service (i.e. the loss of a licence to broadcast) none of the matters is criminal, nor do any of them come under what is commonly known as “the law of the land.”

Consider the question of “doorstepping” – i.e. approaching a person unannounced with a live microphone, or running video-camera and demanding a response from them. The Codes of Conduct specify that a journalist wishing to “doorstep” must obtain permission to do so at a very senior level, at the same time, fully justifying the need for the action.

This does not mean that the practice is illegal. It may be distasteful; it may give rise to a civil action for harassment; but neither is a reason for a legislature to involve itself.

While the UK government set up the BBC Trust and Ofcom to regulate their respective sectors of the media industry, as a rule, government does not involve itself directly in the regulation of any of the media within its jurisdiction.

It must be accepted that the internet – blogs, Facebook, Twitter etc – cannot be regulated in the same way in which the older, more traditional media can be regulated. This is simply because with radio, television and print, by and large, the medium, or delivery platform itself is not universally available and, therefore, those engaged are a comparatively small, easily and readily identifiable group, often with a hierarchical structure, which can be regulated.

The same is not true of the internet, which is worldwide, open and within which anonymity is easy.

Journalists are identifiable and don’t hide behind anonymity:

By and large this is true of the established, accepted media, but it is not a requirement and, certainly is not imposed by any law, or regulation.

That being said, there are many instances of unattributed journalism in mainstream, established journalism. One needs look no further than the Jersey Evening Post for at least two examples – “Helier Clement” and “Under the Clock.”

Since there is no law, or regulation which demands that a person practising journalism be identifiable, it must surely be up to the individual, or group to decide whether they wish to publish under their real names, or under a pseudonym.

Journalists do not publish libellous, or defamatory material:

Libel and defamation are civil, not criminal matters and should, therefore, not form part of the thinking of any legislative body seeking to define, or differentiate between different types of journalism.

The professional standing and level of journalistic training of an individual has no bearing on whether that person has, or has not committed a libel, or has defamed an individual, or body.

The only difference lies in the fact that, in the case of professional journalists, it is often their organisation against whom proceedings are instituted, rather than, or in addition to the individual.

Everyone who practices journalism is equally subject to actions for defamation, or libel, be they a multinational media corporation, or a single person, alone with his computer in his own home.

Within the established, “accredited” media, journalists have a responsibility to avoid committing libel, or defamation for a number of reasons:

1. The applicable Code of Conduct demands “accuracy”. Libellous, or defamatory statements are, by definition, untrue and, therefore, are inaccurate.
2. Actions for libel, or defamation are costly, especially if lost. Employed journalists have a responsibility not to cost their employers large amounts of money in settling law-suits.
3. The publication of a libellous, or defamatory statement lowers the standing and credibility of both the outlet and the journalist.

However, the onus is solely upon the person who alleges defamation, or libel, to take such action as he, or she feels necessary to protect his, or her, good name.

This redress can take many forms: pointing out to the publication that it has made an error and receiving an apology and/or retraction; issuing and having published a statement of rebuttal; instituting legal proceedings.

All are, in effect, private, or civil matters, not criminal.

No legislature in the western world involves itself in purely civil proceedings of this nature.

Journalism is impartial:

This is the most commonly held myth about journalism. It is immediately exploded when one considers the fact that most newspapers have a “colour.” – in the UK, usually, they either support the Conservative Party, or Labour. Consider, as just a single example, the relatively recent switch of support of the Murdoch press from Labour to Conservative.

Add in the fact that the majority of newspapers carry a large number of editorials and opinion-pieces and the concept of impartiality becomes, at best, cloudy.

Print journalism is rarely impartial and since Citizen Journalism is usually text, conveyed to a computer screen rather than a piece of paper, it must be accepted that, it too, can and will exhibit partiality and bias. In many instances, if the intent of the Citizen Journalist is to bring about political or social reform, bias is often a necessary part of their endeavours.

A blog is a personal thing, as is an editorial column, or opinion-piece. One may be provided by a single person on the internet, the other by an established newspaper with a massive circulation. Both are equally valid. To seek to limit one while allowing the other would be to introduce an unacceptable and unfair dual-standard.

No legislature in a Western democracy would, hopefully, dream of seeking to control “Letters to the Editor” by law. They are expressions of personal opinion and, as such,

are a valid, but limited and usually partisan comment on the matter in hand. The same is true of contributors to broadcast interactive programming such as 'phone-ins and of comments on blogs. It must be accepted that if one is free to pass personal comment in the letters-pages of a newspaper, or on the radio, one must be equally free to post comment on a website.

Similarly, there is any number of publications and websites which follow a particular agenda. Provided that they obey the Law and, if governed by such, adhere to their relevant Code of Conduct, they are allowed to function without interference. It is difficult to envisage why one particular group – Citizen Journalists, bloggers etc. – should be singled out for different treatment.

With regard to broadcast media – radio and television – there is a greater degree of impartiality than is usually found in print.

Impartiality is enshrined in the BBC Licence and Charter and is a cornerstone of the Ofcom Code of Conduct.

The internet allows many others to practice journalism who are not subject to such regulation and who, therefore, are not constrained by the need to achieve impartiality in coverage.

Proper journalism has an established standing:

Once upon a time, there were no newspapers. Radio broadcasting began in the 1920s. Television didn't begin to achieve prominence before the 1950s. The internet, as a medium, is still developing and growing.

It can be argued strongly that Citizen Journalists, bloggers and the like are, in effect, the latest incarnation of a long-established tradition – pamphleteering.

In the late 17th and 18th centuries, pamphlets were a major means of informing the masses, but every pamphlet and pamphleteer had a personal, or political agenda.

Pamphleteering waned with the advent of mass-circulation newspapers; although it survived until fairly recently as a powerful political tool within jurisdictions which did not enjoy a free press, such as the late Communist Bloc countries.

There is little difference between the person who writes a, perhaps inflammatory, probably wholly partisan, entry on a website and the pamphleteers of old, save that the means of delivery these days is much more available, simple and immediate.

Every member of the States of Jersey has, himself, or herself, indulged in partisan pamphleteering, either handing out their election manifestos and leaflets to prospective voters, or pushing them through letter-boxes in their constituency.

Increasingly, candidates for election, are combining the traditional leaflets and pamphlets with websites which extol their own virtues as a prospective member of the States. They are, of course, not impartial and, in fact, are hugely partisan. Nor, in the main, are they written by professional, paid journalists; and their contents are not regulated except under the existing Law and the need, if the candidate so wishes, to avoid publishing libels and defamatory material.

However, within the definition of the term, such leaflets and websites are certainly a form of journalism.

In brief, it must be concluded that, in the practice and purpose of journalism, as accepted, there can be no valid, or legitimate differentiation between the established professional media such as the BBC, the J.E.P. and Channel TV etc. and the writings and postings of individuals, or groups on the internet.

So, is there any difference between the established media and Citizen Journalists, bloggers etc?

The chief difference between the established media and internet bloggers, Citizen Journalists, Activist Journalists etc. is simply one of public perception.

The fact that the established media are regulated; that they are well-established and of long-standing; that they do follow codes of conduct; that, with certain exceptions, they do seek to be impartial; that they do employ trained, professional journalists; and that they do have legal teams who actively seek to avoid libels and defamations means, simply, that readers, listeners, viewers and users feel that they can more readily trust and believe what they say.

The difference, therefore is quite simply credibility – and that, is a matter not for the States, or legislation, or regulation, but for each individual member of society.

In seeking to define “the Media,” or “journalists” and “journalism”, with a view to addressing the question of who should, or should not be allowed to attend / report on / film States’ business, such as the public meetings of Scrutiny Panels, the States are stepping into a veritable, albeit metaphorical, minefield.

The States is perfectly at liberty to formulate regulations, even legislation, to safeguard privacy and to ensure that its proceedings and business are conducted within the existing laws, but to seek to disbar a person, or persons from access to meetings and from, subsequently, recording those meetings for later public consumption on the grounds that they are not “journalists” can only be considered direct action designed to limit public access to States’ business and to curtail freedom of speech.

The fact that such people attend public meetings to gather information for later publication and public consumption means that they are, indeed, practising journalism and that, therefore, they are journalists.

To seek to disbar them on the grounds of professional status; a use of anonymity; lack of professional training; a lack of regulation; size of circulation, or user-numbers; the length for which their “publication” has been in existence; the fact that they follow a specific and, therefore, a partisan, or biased agenda; or because the States, or others, simply do not like what they say and how they say it would be to take a step unprecedented in western democracy and would, in simple terms, make the States of Jersey the only free, democratic jurisdiction to directly impose censorship and state control over a legitimate section of the ever-changing and developing media.