

**MINUTES of the COMPLAINTS COMMITTEE MEETING**  
**Wednesday 21 March 2018 at 10.30 am**  
Gate House, 1 Farringdon Street, London EC4M 7LG

**Present** Alan Moses (Chairman)  
Richard Best  
Gill Hudson  
David Jessel  
Helyn Mensah  
Andrew Pettie  
Elisabeth Ribbans (Item 6)  
Neil Watts  
Miranda Winram  
Peter Wright (Items 10-12)  
Nina Wrightson (Items 1 – 10)

**In attendance:** Charlotte Dewar, Director of Operations  
Michelle Kuhler, PA and minute taker  
Bianca Strohmann, Head of Complaints  
Matt Tee, Chief Executive Officer

**Also present: Members of the Executive:**

John Buckingham  
Vikki Julian  
Sophie Malleson  
Holly Pick  
Lauren Sloan  
Charlotte Urwin  
Hugo Wallis

1. Apologies for Absence

Were received from Janette Harkess and Nazir Afzal.

2. Declarations of Interest

Andrew Pettie declared an interest in item 6. He left the meeting for this item. Peter Wright had an interest in items 6-9 and was not present at the meeting for these items.

3. Minutes of the Previous Meeting

The Committee approved the minutes of the meeting held on 31 January.

4. Update by the Chairman – oral

The Chairman welcomed new Committee member Helyn Mensah, along with Elisabeth Ribbans who has re-joined as an alternate editorial member.

He updated the Committee on recent events, including the announcement by the Secretary of State that the Government intended to seek repeal of S.40 of the Crime and Courts Act 2013 and that it did not intend to proceed with stage two of the Leveson Inquiry.

He finished by handing over to the Director of Operations, who gave the Committee an update on legal matters, including the judicial review proceedings in relation to two of the Committee's decisions.

5. Matters arising

There were no matters arising.

6. Complaint 18930-17 Dixon v The Daily Telegraph

The Committee discussed the complaint and ruled that the complaint should be **upheld**. A copy of its ruling appears in **Appendix A**.

7. Complaint 19841-17 A Man and Family v Mail Online

The Committee discussed the complaint and ruled that the complaint should be **upheld**. A copy of its ruling appears in **Appendix B**.

8. Complaint 20912-17 Khan v Daily Mail

The Committee discussed the complaint and ruled that the complaint should be **upheld**. A copy of its ruling appears in **Appendix C**.

9. Complaint 20480-17 London Borough of Tower Hamlets v The Times

The Committee discussed the complaint and ruled that the complaint should be **upheld**. A copy of its ruling appears in **Appendix D**.

10. Complaints not adjudicated at a Complaints Committee meeting

The Committee confirmed its formal approval of the papers listed in **Appendix E**.

11. Any other business

(i) Complaint 20298-17 A Woman v Thurrock Independent

The Committee discussed the complaint and ruled that it should **be not upheld**. A copy of its ruling appears in **Appendix F**.

(ii) Complaint 20445-17 De Groot v The Times

The Committee discussed the complaint and ruled that it should **be not upheld**. A copy of its ruling appears in **Appendix G**.

(iii) Rejections sampling update

Nina Wrightson gave an update on this item. She worked with Nazir Afzal and Janette Harkess to review the samples and only a few administration errors were found that had since been addressed and resolved with the executive.

12. Date of Next Meeting

The date of the next meeting was confirmed as **Wednesday 25 April 2018**.

The meeting ended at **13:45pm**

## APPENDIX A

### Decision of the Complaints Committee Dixon v The Daily Telegraph

1. Eloise Dixon complained to the Independent Press Standards Organisation that the Daily Telegraph breached Clause 1 (Accuracy), Clause 2 (Privacy) and Clause 6 (Children) of the Editors' Code of Practice in an article headlined "British mother shot by bandits after driving into Brazilian slum", published on 8 August 2017, and an article headlined "British tourist 'afraid' to talk to police in Rio", published on 9 August 2017.
2. The first article reported that the complainant had been shot by "armed bandits" while on holiday with her family in Brazil. It said that, according to police, the family had been looking for somewhere to buy water, had misunderstood locals who had given them directions, and had entered a "notorious slum". The police said that two armed men had approached them and ordered them to leave; the family had not understood, and the men had then opened fire. It was accompanied by a photograph of the complainant and her husband.
3. The first article was published in a similar form online, under the headline "British woman shot as gang opens fire on family after straying into favela near Rio de Janeiro".
4. The second article said that the complainant, who was recovering in hospital in Rio de Janeiro, was too scared to talk to the police, according to local media. It repeated the information given in the first article, gave the ages of the complainant's three children and said that they had escaped injury. The print article included a photograph of the complainant.
5. The second article was also published online, under the headline "British tourist shot in favela in Rio 'too scared' to speak to police". In addition to the image of the complainant, the online version included a photograph of the complainant with her husband and one of their young children; the child's face was un-pixelated.
6. The complainant said that the newspaper's coverage had intruded into her private life and that of her child, and its account of the incident was inaccurate.
7. The complainant was particularly concerned that the newspaper had published a photograph of her child, taken several years ago, without her face blurred and without consent. She said that her child had been disturbed by the publication of the photograph, which she considered to be private, and by the fact that friends at school had sent her messages about what had happened to her because of the coverage. In addition, the complainant said that the newspaper had taken photographs from her social media account and had published them without consent.
8. The complainant also said that the articles had included inaccuracies. The newspaper had inaccurately reported that her family had entered the favela because they had misunderstood directions given to them while looking for water.

In fact, the hire car's sat nav had misdirected them. The articles had also wrongly reported that they had misunderstood orders given to them by the armed men: the men had not spoken to them at all.

9. The newspaper said that it sympathised with the complainant for what must have been a terrifying ordeal, but it did not accept that it had breached the Code.
10. The newspaper noted that the photograph showing the complainant's child had been taken ten years ago, and the article had not named her. It considered that the child would not now be easily recognisable from the image, if at all; it had not focused on the child; and it was not private as it was posted on the complainant's public Facebook page.
11. The newspaper said that there was also a public interest in publishing the photograph. It was important to bring to public attention the dangers posed by unwary tourism in Brazil. In this case, children's lives had been put at risk by the family's straying into the favela; the image helped to bring home to readers the gravity of the situation, and reminded them that very young children had been involved. In light of the complaint, the newspaper nevertheless removed the image from the article.
12. With regard to the complainant's concern that images had been taken from her social media account, the newspaper said that the account was open; the images were available to anyone to view and were not private.
13. The newspaper did not consider that the complainant had identified any significant inaccuracies in the articles. It said that the articles had been based on information, reported locally, which had been issued by the local police chief in Brazil, and later by the medical director at the hospital. It had no reporters on the ground in Brazil. It said that it had been entitled to rely on the police and hospital press statements.
14. Nevertheless, the newspaper amended the online articles to take account of the complainant's concerns. It also offered to publish the following clarification on page two of the newspaper:

*Favela shooting*

*Contrary to what we reported in an 8 Aug article ("British mother shot by bandits after driving into Brazilian slum"), the Dixon family had not stopped to ask for directions or look for water when they were attacked, but had in fact been misled by their satnav. We would also like to point out that the gunmen did not speak to Mrs Dixon or her family.*

It also offered to add the following footnote to the online articles:

*CORRECTION: Contrary to what this article originally reported, the Dixon family had not stopped to ask for directions or look for water when they were attacked, but had in fact been misled by their satnav. We would also like to point out that the gunmen did not speak to Mrs Dixon or her family. We are happy to make this clear, and we have amended the article.*

15. As a way to resolve the matter, the newspaper offered to remove the online articles, to write a private letter of apology and to make a charitable donation.
16. The complainant did not accept the newspaper's offer as a resolution. She said it was irrelevant that the image of her child had been taken several years ago; the newspaper had given no consideration to her children when it chose to publish the image; it could have been a photograph of one of her other children.

### Relevant Code provisions

#### 17. Clause 1 (Accuracy)

- i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.
- ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and — where appropriate — an apology published. In cases involving IPSO, due prominence should be as required by the regulator.
- iii) A fair opportunity to reply to significant inaccuracies should be given, when reasonably called for.
- iv) The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.

#### Clause 2 (Privacy)

- i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications.
- ii) Editors will be expected to justify intrusions into any individual's private life without consent. In considering an individual's reasonable expectation of privacy, account will be taken of the complainant's own public disclosures of information and the extent to which the material complained about is already in the public domain or will become so.
- iii) It is unacceptable to photograph individuals, without their consent, in public or private places where there is a reasonable expectation of privacy.

#### Clause 6 (Children)

- i) All pupils should be free to complete their time at school without unnecessary intrusion.
- ii) They must not be approached or photographed at school without permission of the school authorities.
- iii) Children under 16 must not be interviewed or photographed on issues involving their own or another child's welfare unless a custodial parent or similarly responsible adult consents.
- iv) Children under 16 must not be paid for material involving their welfare, nor parents or guardians for material about their children or wards, unless it is clearly in the child's interest.

v) Editors must not use the fame, notoriety or position of a parent or guardian as sole justification for publishing details of a child's private life.

#### Public interest

5) In cases involving children under 16, editors must demonstrate an exceptional public interest to over-ride the normally paramount interest of the child.

### **Findings of the Committee**

18. The articles clearly reported on a subject which involved the welfare of the complainant's children: they had been involved in a shooting while on holiday with their family, and they had witnessed their mother being shot and seriously injured. One of the articles included an un-pixelated image of one of the children, which showed her full face. The Committee noted that the newspaper had been unaware that the image of the child had been taken 10 years ago when it chose to publish it, and its position, upon realising this fact, that the child would not now be recognisable from the image due to the passage of time. However, the fact it had transpired that it was an old photograph did not justify the newspaper's decision to publish it in this context, as the complainant's child was still under 16 at the time of publication.
19. Publishing the unedited image of the child in the context of this story, without the consent of a parent or a similarly responsible adult, represented a breach of Clause 6. There was no specific public interest in publishing this image, particularly as an exceptional public interest justification was required in the case of a child. The complaint under Clause 6 was upheld.
20. The Committee then considered the complaint in relation to the other published information about the child. While it understood that the complainant's child had been upset by the coverage, the fact that the complainant had three children who were also involved in the incident was relevant information about the incident. The articles had given their ages, but they had not named them. The fact that their friends were informed of what had happened did not represent an intrusion into their time at school in breach of Clause 6.
21. The newspaper had illustrated its coverage with images taken from the complainant's social media account, which were publicly available. The images had shown the complainant's face; she was not shown engaging in a private activity; and their publication had not disclosed private information about her. There was no breach of Clause 2.
22. It was not in dispute that the newspaper had based its coverage on information issued by the police in Brazil and by the hospital where the complainant was being treated, which had been reported locally. The newspaper was entitled to rely on the accuracy of this information, which had come from well-placed sources. Furthermore, both articles made clear that the information regarding the circumstances of the shooting had come from the police and the hospital; they had not given the misleading impression that the newspaper had obtained a first-

hand account from the complainant. There was no failure to take care over the accuracy of the articles in breach of Clause 1 (i).

23. Following publication, the newspaper had accepted that the information issued by the police and the hospital had been inaccurate, and that the family had not misunderstood directions given to them or the orders of the gunmen to leave the favela. The distinction was significant, as these claims could suggest that the shooting could have been avoided had the family followed instructions. As such, a correction was required in order to meet the requirements of Clause 1 (ii).
24. The newspaper had amended the online articles and it had offered to publish a correction on page two and as an online footnote, which made clear that the family had entered the favela because of the satnav and stated that the gunmen had not spoken to the complainant or her family. The Committee considered that this wording made the correct position clear and met the requirement of Clause 1 (ii).

### Conclusion

25. The complaint was upheld.

### Remedial action required

26. Having upheld the complaint under Clause 6 (Children) of the Code, the Committee considered what remedial action should be required.
27. In circumstances where the newspaper had breached Clause 6, the appropriate remedy was the publication of an adjudication.
28. As the breach of the Code had appeared online, the Committee decided that the adjudication should be published on the newspaper's website.
29. The headline to the adjudication should make clear that IPSO has upheld the complaint, give the title of the newspaper and refer to the complaint's subject matter. The headline must be agreed with IPSO in advance. A link to the full adjudication (including the headline) should appear in the top 50% of stories on the publication's website for 24 hours; it should then be archived in the usual way.
30. The terms of the adjudication for publication are as follows:

*Eloise Dixon complained to the Independent Press Standards Organisation that the Daily Telegraph breached Clause 6 (Children) of the Editors' Code of Practice in an article headlined "British tourist shot in favela in Rio 'too scared' to speak to police", published on 9 August 2017.*

*The complainant said that the newspaper had published a photograph of her child without her face blurred and without consent, in breach of Clause 6. She said that her child had been disturbed by the publication of the photograph, which she considered to be private.*



*The newspaper did not accept a breach of the Code. The photograph had been taken ten years ago, so it did not consider that the child, who was not named in the article, would be easily recognisable from the image. It also noted that the image was publicly available on the complainant's public Facebook page. The newspaper said that in any case, there was also a public interest in publishing the photograph as it helped to bring home to readers the gravity of the situation in which children had been involved.*

*The article clearly reported on a subject which involved the child's welfare: she had been involved in a shooting and had witnessed her mother being shot and seriously injured. The un-pixelated photograph of the child showed her full face. The image of the child had been taken 10 years ago; however, this did not justify the newspaper's decision to publish it un-pixelated in the context of this article as the child was still under 16 at the time of publication.*

*Publishing the unedited image in the context of this story, without the consent of a parent or a similarly responsible adult, represented a breach of Clause 6. There was no specific public interest in publishing this image, particularly as an exceptional public interest justification was required in the case of a child. The complaint under Clause 6 was upheld.*

31. The Committee had also found that a correction was required in order to avoid a breach of Clause 1(ii). The newspaper should now publish the wording in print and online, as offered.

## APPENDIX B

### Decision of the Complaints Committee 19841-17 A Man v Mail Online

#### Summary of complaint

1. A man complained to the Independent Press Standards Organisation on behalf of himself, his mother and his sister, that Mail Online breached Clause 2 (Privacy) and Clause 9 (Reporting of Crime) of the Editors' Code of Practice in two articles published on 2 November 2017 and 3 November 2017.
2. The first article reported that a "mystery man" had been photographed with a famous heiress, and speculated that the pair may be in a relationship. The article reported biographical information about the heiress and included four pictures of the pair walking together on the street. The sub-headline of the article asked readers to identify the "mystery man".
3. The second article reported that the "mystery man" had been identified as the complainant. It reported a series of biographical details about him, including his employment history, recent travel and interests. The article also stated that his family had a "colourful past," and that his father had been jailed for fraud and that his brother-in-law was an international drug smuggler. The article detailed the circumstances of the two men's convictions and their sentences. It also reported the name of the complainant's mother and sister and details of the businesses they had run. The article went on to speculate that the heiress' family may be concerned that his daughter's alleged new boyfriend had two family members with criminal convictions. The article reproduced one of the photographs published in the first article and included a number of photographs of the complainant taken from social media.
4. The complainant said that the first article was a breach of his privacy. He said that he was not a public figure and information concerning his personal life, including any possible relationship, was fundamentally private. He said that publishing photographs of him without his consent, which he believed had been taken using a long lens camera, was an intrusion into his private life. He said that at the time the photographs were taken, the woman who accompanied him was engaged in a private family activity as she was collecting her young children from school. In these circumstances, he believed he had a reasonable expectation of privacy. He also said that asking readers to identify him from these photographs added to the overall intrusiveness of the article.
5. The publication did not accept that it had breached the Code. It said that the first article did not contain any private information about the complainant, in fact it maintained that it did not contain any information about him at all, except the information included in the photographs. It said that the photographs showed only his appearance and that he had been in the company of the heiress. It said that it was accepted that how you appear in the street is not information about which you have a reasonable expectation of privacy as an adult. It also did not accept that the complainant was engaged in a private family activity, as the heiress and her children were not his family. The publication maintained that where the complainant had chosen to accompany a famous and much photographed

individual in public, he did not have a reasonable expectation of privacy. It also said that speculation about whether two individuals were in a relationship was not private information but editorial comment based on the contents of the photographs.

6. The complainant said that the second article engaged Clause 9 as it unjustifiably identified himself, his mother and his sister as relatives of individuals convicted of crime. He said that they were not genuinely relevant to the story – the story being whether or not he was in a relationship with a particular individual. He said that these convictions were included to portray himself, his sister and his mother in a negative and distorted light.
7. Further, the complainant said that the details of his family background represented information about his private and family life that was not in the public domain. He said that including biographical information about him, his mother and sister in an article that also reported the convictions of family members was a breach of their privacy.
8. The publication did not accept that Clause 9 was engaged in the second article, as it said it was not a report of crime but a report of who the complainant was. It said that Clause 9 was intended to ensure that family members and friends of those accused of crime are not unnecessarily referred to when the press is reporting on a person's arrest, charge or trial. It said this did not prevent a publication from including, in a story about a person's background, the fact that their family member had a conviction. If Clause 9 was engaged, the publication said that the article was not in breach of the Code, as the complainant and all his family members were genuinely relevant to the story - the story being who the complainant was.
9. It said that the complainant had appeared on a reality TV show with the heiress and her family and provided screenshots of publicly available photographs from social media that showed the complainant with the heiress and members of her family. It said that discussion of someone's family and background was not private and that the complainant, his mother and his sister did not have a reasonable expectation of privacy in relation to the fact that the complainant's brother-in-law and father had been found guilty of criminal offences.

### Relevant Code provisions

#### 10. Clause 2 (Privacy) \*

- i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications.
- ii) Editors will be expected to justify intrusions into any individual's private life without consent. Account will be taken of the complainant's own public disclosures of information.
- iii) It is unacceptable to photograph individuals, without their consent, in public or private places where there is a reasonable expectation of privacy.

#### Clause 9 (Reporting of Crime) \*

- i) Relatives or friends of persons convicted or accused of crime should not generally be identified without their consent, unless they are genuinely relevant to the story.
- ii) Particular regard should be paid to the potentially vulnerable position of children under the age of 18 who witness, or are victims of, crime. This should not restrict the right to report legal proceedings.

### Findings of the Committee

11. Clause 9 offers protection to family and friends of individuals allegedly involved in crime, and aims to ensure that these individuals are not unjustifiably tainted by their association to alleged criminals. The wording of Clause 9 does not state that it applies only to reports of legal proceedings; it focuses on the nature of the link being made between individuals, rather than the nature of the reporting. The Committee ruled that Clause 9 was engaged by the circumstances of this case.
12. The article had identified the complainant, his mother and his sister as the relatives of persons convicted of crime. The publication had sought to argue that the article had not breached the Code as his family members' criminal records were a part of the story of his life and therefore relevant. The Committee acknowledged that there will be circumstances where, in giving an account of an individual's background, there will be a justification for referring to family members' criminal convictions, because they have a specific relevance. However, Clause 9 sets a high bar, and this relevance needs to go further than the mere fact of a relationship. In this case, the publication had not argued that the criminal convictions had any specific relevance to the article in question, or to the complainant, his mother and sister. There was no suggestion that any of these individuals were relevant or connected to the crimes reported, and therefore identifying these individuals was in breach of Clause 9.
13. Having ruled that there had been a breach of Clause 9 of the Editors' Code, the Committee considered it was not necessary to make a further ruling about the same material in relation to Clause 2.
14. The Committee then considered whether the complainant had a reasonable expectation of privacy in respect to the information about his alleged relationship contained in the first article. The photographs published revealed only what the complainant looked like when walking on the street, and that he had, publicly, been in the company of the heiress. They did not show the complainant engaged in a private activity and had been taken in a public place. In these circumstances, the Committee considered that the complainant did not have a reasonable expectation of privacy in relation to this information. Re-publishing this information in the second article did not breach Clause 2. Also, speculating in broad terms about the potential existence of a relationship between these two people, based on the limited information contained in these photographs, was not a breach of the complainant's privacy. There was no breach of Clause 2.

### Conclusions

15. The complaint was upheld.

### Remedial Action required

16. Having upheld the complaint under Clause 9, the Committee considered what remedial action should be required.
17. In circumstances where the publication had breached Clause 9, the publication of an adjudication was appropriate.
18. The Committee considered the placement of this adjudication. The article had appeared on the publication's homepage. The Committee therefore required that its adjudication should be published on the top 50% of the publication's website, with a link to the full adjudication (including the headline) appearing on the homepage for 24 hours; it should then be archived in the usual way. The headline to the adjudication should make clear that IPSO has upheld the complaint, give the title of the publication and refer to the complaint's subject matter. The headline must be agreed with IPSO in advance. The terms of the adjudication for publication are as follows:

*A man complained to the Independent Press Standards Organisation on behalf of himself, his mother and his sister, that Mail Online breached Clause 9 (Reporting of Crime) of the Editors' Code of Practice in an article published on 3 November 2017.*

*The article reported that the complainant was allegedly in a relationship with a famous heiress. The article stated that the complainant's family had a "colourful past," and that his father had been jailed for fraud and that his brother-in-law was an international drug smuggler. The article detailed the circumstances of the two men's crimes and their sentences. It also reported the name of the complainant's mother and sister and details of the businesses they had run.*

*The complainant said that the article breached Clause 9 (Reporting of Crime) as it identified himself, his mother and his sister as relatives of individuals convicted of crime. He said that the inclusion of these convictions was used to portray himself, his sister and his mother in a negative and distorted light. He believed this unjustifiably identified them as relatives of individuals convicted of crime.*

*The publication did not accept that Clause 9 was engaged in the article, as it said it was not a report of crime but a report of who the complainant was. It said that Clause 9 was intended to ensure that family members and friends of those accused of crime are not unnecessarily referred to when the press is reporting on a person's arrest, charge or trial. It said this did not prevent a publication from including, in a story about a person's background, the fact that their family member had a conviction.*

*In its consideration the Committee had regard for the purpose of Clause 9, and the harm it was trying to prevent. Clause 9 offers protection to family and friends of individuals allegedly involved in crime, and aims to ensure that these individuals are not unjustifiably tainted by their association to alleged criminals. The wording of Clause 9 does not state that it applies only to reports of legal proceedings; it focuses on the nature of the link being made between individuals, rather than the nature of the reporting. The Committee ruled that Clause 9 was engaged by the circumstances of this case.*

*The article had identified the complainant, his mother and his sister as the relatives of persons convicted of crime. The publication had sought to argue that the article had not breached the Code as his family members' criminal records were a part of the story*

*of his life and therefore relevant. The Committee acknowledged that there will be circumstances where, in giving an account of an individual's background, there will be a justification for referring to family members' criminal convictions, because they have a specific relevance. However, Clause 9 sets a high bar, and this relevance needs to go further than the mere fact of a relationship. In this case, the publication had not argued that the criminal convictions had any specific relevance to the article in question, or to the complainant, his mother and sister. There was no suggestion that any of these individuals were relevant or connected to the crimes reported, and therefore identifying these individuals was in breach of Clause 9.*

## APPENDIX C

### Decision of the Complaints Committee 20912-17 Khan v Daily Mail

#### Summary of Complaint

1. Shoaib Khan complained to the Independent Press Standards Organisation that the Daily Mail breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "Another Human Rights Fiasco", published on 15 December 2017.
2. The article reported on a High Court judgment, awarding compensation to Iraqi citizens for unlawful imprisonment and ill treatment by British armed forces, during the UK's military intervention in Iraq. The article was the main story on the newspaper's front page, and continued on page 4.
3. The subheadline on the front page was: "Iraqi 'caught red-handed with bomb' wins £33,000 – because our soldiers kept him in custody for too long". The first line of the article reported that "taxpayers face massive compensation bills after a suspected Iraqi insurgent won a human rights case against the Ministry of Defence yesterday". It reported that the court ruled that the Iraqi citizen, Mr Abd Al-Waheed, "was held too long by British troops despite allegedly being found making a bomb", and that he was awarded £33,000 for "a breach of the European Convention on Human Rights".
4. The main article, as continued on page 4, reported that Mr Al-Waheed had claimed he was unlawfully imprisoned and ill-treated by British soldiers. The article reported that the judge had said it was "wrong to detain suspects without evidence that they were combatants", and that there was evidence he had been beaten. It reported that Mr Al-Waheed was awarded £15,000 in respect of the beating, a further £15,000 for ill treatment and £3,300 for unlawful detention, because "it could not be proven he was a threat to security and should have been released after 96 hours".
5. The main article was accompanied by a separate item on page 4 headlined: "The 'insurgent' found in house full of bombs". This item contained further details on Mr Al-Waheed's claim, including the circumstances of his detention. It reported that "according to soldiers", he was "found on a sofa handling a roadside bomb in a house that contained mortars and plastic explosives", but that according to Mr Al-Waheed, he had been asleep in bed. It reported that Mr Al-Waheed has said that his arrest was a case of mistaken identity, and that his brother-in-law had been the British soldiers' target.
6. The complainant said that the judge had found that the claim Mr Al-Waheed had been caught "red handed" with a bomb, or that he was an 'insurgent' was false. He said it was misleading to place this claim in the front page sub-headline, with no indication that the allegation had been found by the court to be untrue. The complainant said that the sub-headline contained a further inaccuracy, because Mr Al-Waheed was not awarded £33,000 for being "kept in custody for too long". He was awarded £3,300 for unlawful detention, and a further £30,000 for ill-treatment. The complainant said that the reference to Mr Al-Waheed being compensated for "a breach" of the European Convention was inaccurate. He said that there were in fact several breaches.

7. The newspaper said that while the complainant may well object to the way in which the article was presented, subjecting the decisions of the courts to scrutiny is an important function of the press. It said that providing robust and critical analysis of such decisions is essential to contributing to the system of open justice, and is a valuable public service. The newspaper said that prior to publication it had relied on the High Court's 3-page press summary, of what was a 239 page judgment. It said that the press summary was identical to the judge's own summary of his central conclusions, contained in the full judgment. The summary set out that Mr Al-Waheed was found in a house containing a "partly assembled IED and a large quantity of explosives were found in the house", and that it was lawful for British forces to arrest him, as there were reasonable grounds for suspicion that he may have been involved in bomb-making and was therefore a threat to security. It set out that following extensive interrogation, it was decided on 22 February 2007 that he did not pose a threat to security and should therefore be released. The summary explained that this decision was revoked the next day for reasons which did not withstand scrutiny. It explained that, in consequence, Mr Al-Waheed was detained without any legal basis for 33 days, from 23 February 2007.
8. The newspaper said that British soldiers had claimed that they had found Mr Al-Waheed handling a bomb. It said it was entitled to report that such claims had been made, where they played a central role in his arrest, and subsequent detention. The newspaper said that the subheadline of the article included this allegation in inverted commas, which is a long-standing journalistic convention, used to denote claims made in evidence. It said readers would have understood that it was reporting a claim, rather than making a statement of fact. The newspaper said that in reporting this claim had been made, it had relied on its contemporaneous coverage of the trial in June 2016, which its reporter had attended.
9. The newspaper said that the press summary recorded the details the judge had felt most important, and the summary did not refer to the judge's finding that the soldiers' claim that they had caught Mr Al-Waheed with an IED was untrue. It said that while the complainant might feel its article left out important details, there had been no failure to take care not to publish inaccurate information where it had relied on its previous coverage, and the press summary of the ruling. It said the fact the article did not make specific reference to the judge's finding that the claim was false did not suggest Mr Al-Waheed was still suspected of being a terrorist or bomb maker. Indeed, it said that the article fully explained that the court ruled that Mr Al-Waheed had been unlawfully detained, as it could not be proven he was a threat to security.
10. In relation to the subheadline's reference to £33,000 of damages "because our soldiers kept him in custody for too long", the newspaper said that the subheadline must be read in the context of the article as a whole, which clearly and accurately broke down the total award of £33,000 damages.
11. The newspaper said that notwithstanding the fact it did not believe the article was significantly misleading, once specific points raised by complainants were brought to its attention, it published two clarifications.
12. The first was published in response to a complaint by the complainant through the newspaper's internal process, on 20 December 2017. The following wording appeared in its corrections and clarifications box on page 2:



*The secondary headline to an article on 15 December ('Another human rights fiasco!') reported the claim of arresting soldiers that Abd Al-Waheed had been 'caught red-handed with bomb', and that he had been awarded £33,000 for being kept in custody 'for too long'.*

*We would like to make clear that the judge found that the soldiers' claim was a false embellishment and, as was stated in the article, the £33,000 was the total compensation awarded to Mr Al-Waheed for several breaches of the European Convention on Human Rights: £15,000 for beating, £15,000 for inhuman treatment, and £3,300 for unlawful detention. We are also happy to clarify that, although British troops suspected Mr Al-Waheed of being involved in bomb-making, a review committee found he was not and - after that decision was unlawfully overturned - he was retained in custody for another 33 days.*

13. The newspaper said that a second clarification was published on 18 January, in resolution to a complaint raised by Leigh Day, the law firm who had represented Mr Al-Waheed, although it was not representing Mr Al-Waheed in the complaint about the article. The following wording appeared in the page 2 corrections and clarifications box, with the headline "Iraqi abuse claims: Abd Al-Waheed":

*IN OUR December 15 article headlined 'Another human rights fiasco!' about a case in the High Court which saw compensation awarded to four Iraqis for unlawful imprisonment and ill-treatment by British forces, we reported claims made by the soldier who captured him that a 'suspected Iraqi insurgent' Abd Al-Waheed had been 'caught red handed with bomb', and that he was awarded £33,000 for being kept in custody 'too long'.*

*We are happy to clarify that, while Mr Al-Waheed was captured during a raid on his sister's home, this was in fact targeted at his brother-in-law, who was suspected of involvement in insurgent activity. His brother-in-law was not there at the time, but during the raid a number of explosives were found.*

*Despite a British Army Review Committee deciding that Mr Al-Waheed had no connection with his brother in-law's activities and did not pose a threat to security, he was detained for a further 33 days, which a High Court judge ruled to be unlawful.*

*Mr Justice Leggatt concluded that the claim made by the British soldier that Mr Al-Waheed had been found 'handling' a bomb was a 'false embellishment made to strengthen evidence against him', and dismissed similar claims as 'pure fiction'. The judge also found that Mr Al-Waheed was not an insurgent and that 'none of the claimants was engaged in terrorist activities or posed any threat to the security of Iraq'.*

*Compensation was subsequently awarded against the MoD for the unlawful actions of its soldiers. As we have already clarified, and as the article stated, £33,000 was the total compensation awarded to Mr Al-Waheed, of which £15,000 was for beating, £15,000 for inhuman treatment and £3,300 for unlawful detention. We apologise if any contrary impression was formed.*

14. The complainant said that the newspaper had not fulfilled its obligations under Clause 1 (ii) in publishing these clarifications on page 2. He said that the

inaccuracies were significant, and central to the story, that they had appeared on the front page, and that it was only fair, reasonable and proportionate that the correction be published on the front page.

15. The newspaper said that its clarifications and corrections box was the most prominent of any national newspaper, and formed part of a longstanding, well-established system. It said it appeared in the same location in the newspaper virtually every day, regardless of whether a clarification was published, and carried IPSO's contact details, and details of how to complain. It said that in almost every case, the prominent position of its clarifications and corrections box meant that clarifications will appear significantly further forward than original articles that give rise to their publication. It said it would not be fair if page 2 were the appropriate location for clarifications for all articles, no matter how far back in the newspaper they originally appeared, if it could not also be used to clarify material which appears on the front page.
16. The newspaper said that it had resolved a complaint from Leigh Day, the firm which had represented Mr Al-Waheed during legal proceedings, through the publication of the second clarification on page 2. It asked the Committee to consider whether it was appropriate to proceed with consideration of Mr Khan's complaint, where it had resolved a similar complaint to the satisfaction of the interested party.

### Relevant Code Provisions

#### 17. Clause 1 (Accuracy)

- i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.
- ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and — where appropriate — an apology published. In cases involving IPSO, due prominence should be as required by the regulator.
- iii) A fair opportunity to reply to significant inaccuracies should be given, when reasonably called for.
- iv) The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.

### Findings of the Committee.

18. Central to the headline's criticism of this case as a "fiasco" was the description in the front-page subheadline of Abd Al-Waheed as an "Iraqi 'caught red-handed with bomb'"; in the first sentence as a "suspected Iraqi insurgent", and in the second sentence as a man who the court ruled "was held too long by British troops despite allegedly being found making a bomb".

19. Neither on the front page, nor in the main body of the article, was it explained that the claim that Mr Al-Waheed had been caught with a bomb had been discredited shortly after his detention or that the judgment recorded the judge's finding that the claim he had been caught with a bomb was "pure fiction". At the time of publication, these were no longer live allegations against Mr Al-Waheed. The judge had also found no evidence that Mr Al-Waheed had engaged in insurgent activity. The Committee rejected the newspaper's argument that reporting Mr Al-Waheed had been successful in his claim for unlawful detention, because it could not be proven he was a threat to security, had the effect of making this clear; this did not make clear that the judge found the claim Mr Al-Waheed had been found with a bomb had been established to be untrue. In these circumstances, the reference to these serious allegations against Mr Al-Waheed, without making clear they had been disproven, seriously misrepresented the basis of the judgment reported, in breach of Clause 1 (i) of the Code. It also constituted significantly misleading information requiring correction under Clause 1 (ii).
20. The Committee rejected the newspaper's explanation that it was reasonable for it to have relied on its previous press coverage, which had referenced the "red-handed" claim, and on the fact that this had not been rebutted in the press summary of the judgment. The press summary did not refer to the allegation (although it did refer to it having been determined that Mr Al-Waheed had no connection with his brother-in-law's activities, did not pose a threat to security and ought to be released), and included a link to the full judgment, which included the judge's bald and unambiguous finding that the claim that the Mr Al-Waheed had been found with the bomb was false; the reason the judge had found that he had been unlawfully detained was specifically that his detention had continued after this claim was discredited.
21. The front page subheadline claimed Mr Al-Waheed received "£33,000 – because our soldiers kept him in custody for too long" and contrasted this with payments to British soldiers for injuries. In fact, as was accurately recorded by the newspaper in its further coverage, £3,300 of the payment was for unlawful detention; the remaining £30,000 was for injuries caused by British soldiers. The contrast was therefore based in part on an inaccuracy. The newspaper was aware of the true position, which was also recorded in the judgment; it provided no explanation for the front-page inaccuracy. The front-page inaccuracy constituted a further failure to take care over the accuracy of the article, and a breach of Clause 1 (i). Notwithstanding the fact that the correct information had been published elsewhere, the front-page inaccuracy was significant and required correction under Clause 1 (ii).
22. The remaining complaint, which related to the reference to Mr Al-Waheed receiving damages for a "breach" of the European Convention on Human Rights, as opposed to for "breaches", did not identify an inaccuracy. There was no breach of Clause 1 on this point.
23. The Committee considered whether the newspaper had, via publication of the two corrections, complied with its obligation to correct significant inaccuracies, under Clause 1 (ii). The Committee has recorded previously its support for the use of established corrections and clarifications columns as a means of making corrections easier to find and more prominent, although this may mean that taken individually, a given correction may appear further back in a publication than the original error. However, it has recognised equally that in some instances the publication of a correction in such a column may be insufficient to remedy an inaccuracy.

24. A newspaper's front page is a means for an editor to convey to readers what they consider to be the main news stories of the day. Front pages are therefore an important forum for editorial expression. Publication of a correction, or a reference to a correction on the front page, is an interference with this. In applying the "due prominence" requirement proportionately, the Committee therefore considers that front page corrections, or references to corrections, should only be required in the most serious cases, especially where a newspaper has an established corrections column. The Committee closely analysed the particular features of this case, in considering whether to require additional remedy to the breaches of Clause 1 that it had established.
25. The two errors appeared prominently in the main front page article. Both errors seriously affected the meaning of the article as whole. The newspaper was of course entitled to criticise the judgment. However, in this case, it had done so on a false basis. The Committee took into account that the newspaper's corrections column appeared very regularly, and prominently on page 2 of the newspaper. However, it considered that publication of the two corrections in the corrections column lacked "due prominence". This was a serious case where "due prominence" required publication of a reference to the correction on the newspaper's front page. The complaint was therefore upheld as a breach of Clause 1 (ii).
26. The Committee recognised that the wording of the first correction was agreed with the complainant, and that the complainant raised no concern about the wording of the second correction. Nonetheless, the Committee was concerned that the wordings did not directly and candidly acknowledge that the article had contained errors, which contributed to the breach of Clause 1 (ii).
27. The Committee acknowledged the fact that the newspaper had resolved two complaints in direct correspondence, via publication of the clarifications. It noted that Leigh Day had not made the complaint on behalf of its client, Mr Al-Waheed, but was making the complaint on its own behalf. The complaint under consideration by the Committee related to a general point of fact, the complainant was concerned to ensure correct reporting of a publicly available court judgment. The complainant believed the clarifications published by the newspaper were inadequately prominent, set out his reasons for believing this, and wanted to pursue his complaint. The Committee considered that it was not disproportionate or inappropriate to consider this complaint; it was in the public interest to consider the sufficiency of the remedial action taken by the newspaper.

## Conclusion

28. The complaint was upheld.

## Remedial Action Required

29. In considering the nature of the remedy that it should require, the Committee took into account a number of factors. The breach of Clause 1 (i) was serious, and led to publication of seriously misleading information on an important subject. The misleading information was in a prominent position both in the article under complaint, and in the newspaper as a whole, and it substantially changed the meaning of the article. In one instance, the newspaper had published a front-page inaccuracy in relation to material that was accurately recounted in its coverage elsewhere; in the

second instance, the accurate information was easily obtainable from information that had been provided to the newspaper by the court. The newspaper's response to the complaint did not demonstrate it understood the seriousness of the breach; for example, it did not describe any steps it had taken to internally address what was clearly a serious failure to take care not to publish inaccurate information. While the Committee gave considerable weight to the fact the newspaper had published two corrections in its established and prominent corrections column, it had ruled that these corrections had not been sufficient under Clause 1 (ii).

30. Taking into account all of these factors, the Committee concluded that the appropriate remedial action was the publication of an adjudication. The adjudication should be published in full on page four, or further forward. The headline of the adjudication should refer to IPSO, refer to the name of the newspaper, make clear that IPSO has upheld a complaint, or has ruled against the newspaper, and refer to the subject matter of the complaint. The headline must be agreed with IPSO in advance. The headline must also be published on the newspaper's front page - directing readers to the adjudication on the page it appears. The front page headline should appear in the same font size as the front page subheadline on the article under complaint. A border should appear around the headline, to distinguish it from other editorial content.

31. The terms of the adjudication to be published are as follows:

*Shoaib Khan complained to the Independent Press Standards Organisation (IPSO) that the Daily Mail breached Clause 1 (Accuracy) of the Editors' Code of Practice, in an article headlined "Another Human Rights Fiasco", published on 15 December 2017.*

*The article reported on a High Court judgment which awarded compensation to Iraqi citizens for unlawful imprisonment and ill treatment by British armed forces, during the UK's military intervention in Iraq. It was the main story on the newspaper's front page, and continued on page 4. The subheadline on the front page was: "Iraqi 'caught red-handed with bomb' wins £33,000 – because our soldiers kept him in custody for too long". The first line reported that "taxpayers face massive compensation bills after a suspected Iraqi insurgent won a human rights case against the Ministry of Defence yesterday".*

*The complainant said that the judge had found that the claims that the Iraqi man referred to in the subheadline had been caught "red handed" with a bomb, or that he was an 'insurgent', to be false. The article was therefore misleading. Also, the man in question was not awarded £33,000 for being "kept in custody for too long". He was awarded £3,300 for unlawful detention, and a further £30,000 for ill-treatment, which included being beaten at the time of his arrest, and inhuman and degrading treatment when in custody.*

*The newspaper said that it had relied on the court's press summary of the judgment, which did not include the finding that this claim was false. It said the article did not suggest the man was still suspected of being a terrorist or bomb maker; it fully explained that the court ruled that the man had been unlawfully detained, as it could not be proven he was a threat to security. The full explanation of the damages award was included elsewhere in the article, which had to be read as a whole.*

The newspaper said that while it did not believe the article was misleading, in response to complaints, it published two clarifications on these points in its page 2 corrections column. The complainant, however, said that the inaccuracies were significant, and central to the story, that they had appeared on the front page, and that the correction should be published on the front page.

IPSO's Complaints Committee said that central to the article's characterisation of the judgment as a "fiasco" was the front-page subheadline's description of one of the claimants as an "Iraqi 'caught red-handed with bomb'", and the reference to the case in the first sentence as being a case where a "a suspected Iraqi insurgent" had "won a human rights case".

The article never explained that the claim that the man had been caught with a bomb had been discredited shortly after his detention or that the judgment recorded the judge's finding that the claim he had been caught with a bomb was "pure fiction". The judge had also found no evidence that the Iraqi man had engaged in insurgent activity. These details were in the full judgment, which was available to the newspaper. The repetition of these serious allegations against the Iraqi man, with no indication that it had been disproven, seriously misrepresented the judgment reported and breached Clause 1 (Accuracy) of the Editors' Code of Practice.

The front page claim that the Iraqi man received "£33,000 – because our soldiers kept him in custody for too long", was inaccurate. As the newspaper knew, and was reported later in the article, only £3,300 was for unlawful detention; the remaining £30,000 was for ill treatment. The contrast drawn on the front page between the Iraqi man's damages for unlawful detention, and the payments to British soldiers for injuries, was therefore based in part on an inaccuracy. The newspaper provided no explanation for the front-page inaccuracy, and it was a further failure to take care over the accuracy of the article, and a breach of Clause 1.

The Committee acknowledged that the newspaper had already published two corrections, in what was an established, and prominent corrections column. However, the two errors appeared prominently in the main front page article. Both errors seriously affected the meaning of the article as whole and contributed to a false basis for criticism of the judgment, and how the law had been applied in this case. The failure to take care over the accuracy of the article was serious. The previously published corrections did not directly acknowledge the errors in the article, and were not prominent enough. The Committee required publication of this adjudication as a remedy, with a reference on the front page of the newspaper.

## APPENDIX D

### Decision of the Complaints Committee 20476-17 Tower Hamlets Borough Council v The Times

#### Summary of Complaint

1. Tower Hamlets Borough Council complained to the Independent Press Standards Organisation that The Times breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "Judge rules child must leave Muslim foster home", published on 30 August 2017. The article was published in print and online.
2. The 30 August article, the article under complaint, formed part of the newspaper's coverage of a child's fostering arrangement. Articles published on 28 and 29 August reported a number of concerns about the cultural appropriateness of the child's fostering placements, attributed to a social services supervisor, and friends of the child's mother. The 30 August article reported that following a family court hearing about the child's care arrangements the previous day, the child was "removed from her Muslim foster parents yesterday and reunited with her family as a judge urged councils to seek 'culturally matched placements' for vulnerable children".
3. The article reported that the court "ruled that she should not remain in the placement organised by [the complainant]" and that the court was told that the family's wish for the child to be placed in the care of her grandmother had been under consideration for months. The article noted that "all parties, including Tower Hamlets, supported the decision". The final paragraph of the article quoted a spokesperson for the complainant who said, in part, "we have always been working towards the child being looked after by a family member and will continue to do so". The article reported that when the newspaper told the complainant it would be writing about the case, it "tried to block the story", and wrote to the court where the case was being heard, to complain that publication of the article would be an offence. It then reported that security staff at the court ordered its journalist to leave, and threatened an escorted removal, but that the journalist was readmitted when the judge heard the newspaper wished to attend the hearing.
4. The complainant said that the 30 August article created a distorted impression of its position in the legal proceedings and the judge's ruling, implying wrongly that it had been a passive party to the judge's decision to "remove" the child from her foster carers, when in fact it had actively sought to place the child with her maternal family – and suggesting misleadingly that the judge's comment about "culturally matched placements" was intended as a criticism of the complainant. The complainant said that rather than only "supporting the decision" as the article said, it had applied to the court for this placement to be made. The complainant said that it had not been criticised by the judge; this was supported by the fact that

the judge had later said the placements were appropriate in the circumstances. The complainant explained that the delay had been caused by the need to make checks of the grandmother as a carer before the child could be placed with her; these had been delayed because the grandmother had been living abroad. When they were completed (before the publication of the Times coverage) it applied to the court for the child to be placed into the grandmother's care.

5. While the complainant did not complain under Clause 1 (Accuracy) about the 28 August article and subsequent coverage on 29 August, it said that the 30 August coverage breached Clause 1 as it did not include further information about the case that had come to light through the court hearing. In particular, the complainant noted that on 29 August the court had heard that the child's grandmother was in fact a Muslim. It said that the omission of this information from 30 August article, which had the headline: "Judge rules child must leave Muslim foster home" -was misleading, and unfair to the foster carers concerned. The complainant said that if the newspaper felt unable to report the child's grandmother's religious background, out of a concern to protect her anonymity, it should have dropped the religious element from the story, and not referred to the religion of the foster carers. The complainant also said that at the hearing on 29 August the court had heard from the child's court-appointed guardian that she had visited the foster home, interviewed the child and found that she was settled and well cared for by the foster carer. The court summary also reported that the decision to place the child with her grandmother was not the result of any influence arising out of media reports. It said that these points should have been reported.

6. The complainant said that it had no issue with the newspaper's reporter attending the hearing. However, it said that the article gave the impression that it had tried to block the newspaper from reporting in court, which was misleading.

7. The complainant said that it was not asking IPSO to adjudicate a complaint in relation to the concerns raised about the care received by the child from her foster carers, as reported in the article on 28 August. Nevertheless, it wished to note that the outcome of its investigation of these concerns was published in November 2017. It said that its investigation found that the foster carers provided warm and appropriate care to the child at all times, and that specific concerns about the cultural appropriateness of the placements were not substantiated.

8. The newspaper said it had become aware in the summer of serious concerns surrounding the fostering arrangements of a child taken into care in Tower Hamlets. It said that these concerns were recorded in the reports of a care worker responsible for supervising the child's family contact sessions, and had been expressed by family members. It said the family had made the court aware of its concerns about the appropriateness of the foster placements, and had been seeking since March to have the child removed to the care of her maternal grandmother, but that the complainant had opposed the moves. It said that there was a public interest in the story, because it seemed to confirm a fear that foster



care in Britain was not working to place children with carers who speak their language, share their faith and are matches for their ethnic and cultural heritage. It said that additionally, the reporting provided further evidence that Tower Hamlets was a borough in which vulnerable children were particularly at risk, as reflected by a critical Ofsted report in April 2017.

9. The newspaper said that its articles did not seek to criticise or demonise all Muslims, nor all Muslim foster carers, nor all Muslim foster carers who provide a home for a non-Muslim child, let alone all cross-cultural foster placements. It noted that in its leading article on 28 August, it stated that “fostering is an act of great selflessness. Any carer who opens their home is to be commended for offering refuge to vulnerable children”. It said that its concern in this case was that this particular child’s foster carers “seemed ill-suited to meeting the needs of this particular child”.

10. The newspaper said that the family’s wish for the girl to be placed in the temporary care of her grandmother had been under consideration for a number of months, and that a request to this effect had first been made in March 2017, shortly after the child was taken into care; the complainant was then instructed to undertake an assessment of the grandmother, by a specified date. It said that having failed to do so, the complainant then opposed the mother’s request at a later hearing for the child to live with the grandmother, and the mother’s request was rejected by the court. The newspaper said that this was recorded by the judge at the 29 August hearing, who said “The local authority delayed, unfortunately, in completing that assessment. It may have been that back in June a placement with the grandmother could have been secured”. For these reasons, the newspaper said that while it would have been strictly accurate, in the context of the previous day’s court case, to have reported the child’s placement with her grandmother as Tower Hamlet’s initiative, this would have been a distortion of the bigger picture, which was that it had made an application in favour of the move, which the mother had been requesting for six months. It said that its article made clear that “all parties, including [the complainant], supported the decision”.

11. The newspaper said its 30 August report of the 29 August hearing could not be criticised as inaccurate, because it failed to reflect views expressed by the judge at a later date. The newspaper said that at the 29 August hearing, the judge had directed at the complainant some specific questions, reflecting the concerns it had expressed in its coverage, and which were shared by the child’s mother. She said to the complainant’s barrister: “You would presumably accept that the priority should be an appropriate, culturally matched placement that meets the child’s needs in terms of ethnicity, culture and religion?”, and later stated that “I’m quite satisfied that the concerns that have been raised in the press reports in respect of this child address matters of legitimate public interest. I want you as a responsible local authority to consider this case and any allegations relating to it.”

12. The newspaper said that its approach to what information to include in the 30 August article was governed by its obligation not to publish any details which might identify the child. At the end of the 29 August hearing, it said that its reporter told the court it would not be publishing details of the grandmother's religious and ethnic heritage, so as to avoid any risk of identification. It said that neither the judge nor the complainant demurred at that proposal. The newspaper said that the Case Management Order, published the following day, put into the public domain some information about the family background, which it had not expected to have been able to publish.

13. The newspaper said that that in any event, the grandmother's religious heritage was disputed, as reflected in the Case Management Order, which stated: "documents including the assessment of the maternal grandparents state that they are of a Muslim background but are non-practising. The child's mother says they are of Christian heritage". Furthermore, the newspaper said that there was a significant difference between the non-Muslim child in this case being cared for by a non-practising Muslim grandmother, and being entrusted to foster parents who appeared to be adherents to a particular, conservative form of Islam. It denied that omission of the disputed claim about the child's grandmother's religious heritage was misleading.

14. In response to the complainant's concern that the 30 August article did not report the findings of the child's court-appointed Guardian as to the care provided by one of the foster carers, the newspaper said it was unsure of how far these concerns overlapped with the concerns it had raised in its previous coverage; there was certainly no time for the guardian to have made any thorough investigation of the further allegations it had presented only two days previously. The newspaper said that its reporter had notes of the following exchange at the 29 August hearing:

"Judge: I haven't seen those [supervised meeting] contact notes and I wish to see them. I want you [the complainant] to file an additional statement to address the additional concerns that have been raised in the press reports, assuming these are concerns which the mother shares?"

[Counsel for the mother confirmed in court that she shared those concerns]

Judge: Additional matters identified in the newspapers have not formed part of material filed with the court to date. I want the local authority to identify the evidence and to file it within the next seven days.

I wish the local authority to make further inquiries and carry out an investigation in relation to the additional concerns that have been raised, because I'm told the mother shares those concerns.

There are additional matters of concern that have been raised by recent press reporting...[the child making] derogatory comments about white women, pressure

placed on the child to speak Arabic, [the child saying] Christmas is stupid. I want you [Tower Hamlets] to address that in a statement by the social worker. I want to know where that comes from. [I want to see the] contact supervision reports. The issue has already been raised and I want you as a responsible local authority to consider this case and any allegations relating to it.

I'm quite satisfied that the concerns that have been raised in the press reports in respect of this child address matters of legitimate public interest."

15. The newspaper said that where the judge had said that the matters raised in its report on 28 August now required investigation, the fact that the 30 August article did not refer to findings by the court-appointed guardian did not make it misleading. It said that in any event, its article on 31 August, the next day, reported that "a guardian was said to have visited the child at her foster home and found her 'settled and well cared for'".

16. In relation to the journalist's interaction with the security guards at the court, the newspaper said that the facts were as it had stated them in the article, which did not claim that the complainant objected to its reporter's attendance at the hearing.

### **Relevant Code Provisions**

17. Clause 1 (Accuracy)

i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.

ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and — where appropriate — an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

iii) A fair opportunity to reply to significant inaccuracies should be given, when reasonably called for.

iv) The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.

### **Findings of the Committee**

17. The article under complaint was one of a series reporting on the dispute over the appropriateness of the child's foster placement. The Committee's investigation related specifically to the issues raised in the complaint, which were focussed on the complainant's role in the legal proceedings.

18. The headline of the 30 August article claimed that the judge had ruled the child “must leave Muslim foster home”. The subheadline referred to the judge praising the newspaper for “exposing council’s failure” and stated that “the judge ordered the council to conduct an urgent investigation into issues reported by The Times”. In the second paragraph, the article claimed that the child “should not remain in the placement organised by Tower Hamlets”. The headline on the story continued on page 6 was “Girl’s welfare is the priority, says judge”. The article noted that the judge said that she had made her decision, not because of “undue media involvement”, but “because of the evidence available to the court today, that the grandmother is an appropriate carer for the child”, and that all parties, including [the complainant], supported the decision”. It also quoted the complainant saying that “we have always been working towards the child being looked after by a family member”. However, the article did not make clear that the application for the child to live with the grandmother had in fact been filed by the complainant. Read as a whole, the article gave the impression that the judge had found that the placement was a “failure” by the council; and that this was why she was “removing” the child from her current foster carers, and placing the child with the grandmother.

19. This was a distortion. The complainant had been in the process of assessing the grandmother, and when those assessments were complete, it applied to the court for the child to be placed with her. The Committee noted the newspaper’s position that the judge had said that the complainant had delayed in completing its assessment for the grandmother, and that this was unfortunate; this may have been a legitimate basis for criticism. However, the impression given by the article was that the judge’s decision represented a finding against the complainant’s assessment of the child’s needs in organising the foster placements. This was not what the court had decided, or an implication of what the court had decided. The Committee therefore found that the newspaper had failed to take care not to publish distorted information, in breach of Clause 1 (i). The newspaper made no proposals to correct this distortion, in breach of Clause 1 (ii).

20. The Committee acknowledged the complainant’s position that it was misleading for the 30 August article not to report that the child’s grandmother also had a Muslim background, as had been heard in court, where the previous coverage had emphasised the religion of the foster carers. The concern raised in the previous two days’ coverage was that foster placements organised by the complainant were not culturally matched with the child, due to the religious practices of the foster parents. It appeared to be accepted by all parties however that the grandmother was not a religiously observant Muslim, and that she was a culturally appropriate placement. For these reasons, the Committee did not find that the omission of information about the grandmother’s background in the article constituted a failure to take care over the accuracy of the article. The Committee noted that in a subsequent article (published 31 August), which reported on the published Case Management Order, the newspaper reported that

the judge said the child's grandparents were "of a Muslim background but are non-practising".

21. The Committee noted the complainant's concern that it was misleading to report the concerns raised about the cultural appropriateness of the match, including concerns raised in social services reports, without taking the opportunity to report that the child's Guardian believed her to be settled and well cared for by her current foster carers. It was not in dispute that the concerns about the cultural appropriateness of the foster placements had been raised. That a separate positive assessment of one of the foster carers had been made by the appointed Guardian, did not demonstrate that the claims in the earlier coverage were untrue. Indeed, the judge directed the council to investigate those concerns at the 29 August hearing. In these circumstances, the omission of this information did not make the 30 August article misleading, such as to breach Clause 1.

22. The article reported that the complainant had contacted the court to say that court documents had been unlawfully leaked, and that publication of an article would be an offence; this was not disputed by the complainant and it was clear that this was the basis for the article's claim that the complainant had tried to "block the story". The article then reported that security staff had tried to prevent the journalist attending the hearing, before the judge was told he wished to attend, and he was readmitted. The Committee considered that the article did not imply that the security staff were acting at the request of the complainant, simply because the security staff's actions were reported immediately after describing the complainant's objections to the reporting. The article was not misleading in the manner alleged, and there was no breach of Clause 1 on this point.

### **Conclusions**

23. The complaint was upheld.

### **Remedial action required**

24. Having upheld the complaint, the Committee considered what remedial action should be required.

25. In circumstances where the newspaper had published an article that contained a significant distortion, and not made any offer to correct this, the appropriate remedy was the publication of an adjudication.

26. The 30 August article was the main article on the paper's front page, and continued onto page 6. The Committee identified that the article contained a distortion, but that it remained an accurate account of the outcome of the judge's decision. Taking this into account, the Committee decided that the adjudication should be published in full on page 6 of the newspaper, or further forward. The

headline of the adjudication must make clear that IPSO has upheld the complaint against The Times, and refer to its subject matter; it must be agreed in advance.

27. The adjudication should also be published on the publication's website, with a link to the full adjudication (including the headline) appearing in the top 50% of stories on the publication's website for 24 hours; it should then be archived in the usual way. In relation to the online version of the 30 August article, if the newspaper intends to continue to publish the article without amendment to cure the distortion identified by the Committee in paragraph 27 of the decision, the full text of the adjudication should also be published on that page, beneath the headline. If amended, a link to the adjudication should be published with the article, explaining that it was the subject of an IPSO adjudication, and noting the amendments made.

28. The terms of the adjudication for publication are as follows:

*Tower Hamlets Borough Council complained to the Independent Press Standards Organisation that The Times breached Clause 1 (Accuracy) in an article headlined "Judge rules child must leave Muslim foster home", published on 30 August 2017. The complaint was upheld, and The Times has been required to publish this ruling as a remedy to the breach.*

*The article formed part of the newspaper's coverage of a child's fostering arrangement in Tower Hamlets, in which concerns had been expressed that a Christian child's cultural and religious needs were not being adequately met by her Muslim foster carers. The 30 August article was the third article on this case, following coverage in the two previous days.*

*The article was about a family court hearing that had taken place the previous day, and reported that the child was "removed from her Muslim foster parents yesterday and reunited with her family as a judge urged councils to seek 'culturally matched placements' for vulnerable children".*

*The complainant said that the 30 August article created a distorted impression of its position in the legal proceedings and the judge's ruling. It said it implied wrongly that it had been a passive party to the judge's decision to "remove" the child from her foster carers – rather than the true position, that it had actively sought to place the child with her maternal family – and suggested misleadingly that a comment made by the judge about "culturally matched placements" was intended as a criticism of the complainant. The complainant said that rather than only "supporting the decision", as the article said, it had in fact applied to the court for this placement to be made.*

*The newspaper said that the family's wish for the girl to be placed in the temporary care of her grandmother had been under consideration for a number of months. It said that the complainant had failed to undertake its assessment of the*

grandmother in a timely way, with the consequence being that when the mother requested in June for the child to live with the grandmother, the complainant opposed the request, and it was rejected by the court. For these reasons, the newspaper said that while it would have been strictly accurate, in the context of the previous day's court case, to have reported the child's placement with her grandmother as Tower Hamlet's initiative, this would have been a distortion of the bigger picture, which was that it had made an application in favour of the move, which the mother had been requesting for six months. It said that in any event, the article made clear that "all parties, including [the complainant], supported the decision".

IPSO's Complaints Committee found that the article gave the impression that the judge had found that the placement was a "failure" by the council; and that this was why she was "removing" the child from her current foster carers, and placing the child with the grandmother.

The Committee ruled that this was a distortion. The complainant had been in the process of assessing the grandmother, and when those assessments were complete, it applied to the court for the child to be placed with her. The complainant had in fact agreed at the hearing that the child should live with the grandmother. The impression given by the article was that the judge's decision represented a finding against the complainant's assessment of the child's needs in organising the foster placements. This was not what the court had decided, or an implication of what the court had decided. The Committee therefore found that the newspaper had failed to take care not to publish distorted information, in breach of Clause 1.

## APPENDIX E

Paper No.	File Number	Name v Publication
1261	19601-17	Goodson v Telegraph.co.uk
1262	19645-17	Blair v Scottish Daily Mail
1263		Request for review
1266	20925-17	Note to Committee: Appel v Mail Online
1269	00093-18	Note to Committee: Ellis v Mail Online
1270		Request for review
1273	19078-17	Frazier v Cambridge News
1275	20385-17	Hill v express.co.uk
1276	20193-17	Versi v The Spectator
1280	20860-17	Note to Committee: Morris v thesun.co.uk
1281		Request for review
1282	20887-17	A Man v Mail Online
1283	18860-17	Accamo v Bristol Post
1284	20614-17	Walker v mirror.co.uk
1286	20389-17	Collier v kentlive.news
1287	00014-18	Temple v Witney Gazette
1288		Request for review
1289	20177-17	O'Connell v The Sunday Times
1292	19084-17/20437-17	Stephenson Wright (A9934CN) v Manchester Evening News/Rochdale Observer
1295	20496-17	Wiggin MP v Hereford Times
1296	20114-17	Salmond & Ahmed-Sheikh v The Herald
1297		Request for review
1300	20838-17	Collins v thesun.co.uk
1301	20309-17	Hewitt v The Chronicle (Newcastle)
1303		Request for review



## APPENDIX F

## Decision of the Complaints Committee

## 20298-17 A woman v Thurrock Independent

## Summary of complaint

1. A woman complained to the Independent Press Standards Organisation that the Thurrock Independent breached Clause 2 (Privacy) of the Editors' Code of Practice in an article headlined "SAINTS OR SINNERS?", published on 19 October 2017.
2. The article detailed allegations made by "whistleblowers" concerning a "financial crisis" and "staff bullying" at a local hospice, where the complainant is employed. The article identified the complainant by name, in addition to her job title as the head of a department which was responsible for bringing revenue into the hospice. The article reported that the complainant's department had been placed under "unrealistic pressure" and claimed that employees were finding it "tougher and tougher to achieve their annual income targets". The article reported that the complainant was "currently reported to be on leave with stress related issues" as it had emerged that "grievance procedures" had been taken out by staff alleging bullying.
3. The article was also published online under the headline: "Hospice stays silent over cash crisis and bullying concerns".
4. The complainant said that the fact that she was off work, and the reason for this absence, was private information which the article had disclosed without her knowledge or consent. The complainant accepted that it was in the public interest to report on the alleged financial crisis and mismanagement at the hospice, however she did not accept that the disclosure of her name and her job title, in order to illustrate that story, was justified.
5. The newspaper expressed regret that the article had caused the complainant distress. However, it said that it had a duty of care to the community to report on the claims made by its confidential source, who, in addition to informing the newspaper of the complainant's absence from work, had detailed financial pressure, bullying and administrative failures at the hospice following recent changes to its management.
6. The newspaper maintained that it was in the public interest to name the complainant in the article: it was not possible to report the full extent of the problems within the hospice's organisation, without reporting that a senior member of staff's health had been jeopardised as a consequence. It noted that a number of people from within the organisation, as well as its corporate partners, had been aware of the reasons why the complainant had been absent from work, prior to the disclosure of this information in the article.
7. The newspaper said that the complainant was a well-known member of staff at the hospice, who held a public facing and senior position within a key department, which involved her working closely with corporate partners, major sponsors and attending a wide range of public events. This was the same department which had been adversely

effected by the changes in the hospice's structure. It said that the public interest in reporting on these changes could only be achieved by identifying that a key and senior figure in the organisation was being bullied and victimised as a consequence. The newspaper said that given the complainant's senior position within the organisation, and her popularity within the community, naming her was essential to place public pressure on the senior management at the hospice and demand change.

### **Relevant Code Provisions**

#### Clause 2 (Privacy)\*

- i) *Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications.*
- ii) *Editors will be expected to justify intrusions into any individual's private life without consent. In considering an individual's reasonable expectation of privacy, account will be taken of the complainant's own public disclosures of information and the extent to which the material complained about is already in the public domain or will become so.*
- iii) *It is unacceptable to photograph individuals, without their consent, in public or private places where there is a reasonable expectation of privacy.*

#### Clause 14 (Confidential sources)

*Journalists have a moral obligation to protect confidential sources of information.*

#### The Public Interest

*There may be exceptions to the clauses marked \* where they can be demonstrated to be in the public interest.*

1. *The public interest includes, but is not confined to:*
  - *Detecting or exposing crime, or the threat of crime, or serious impropriety.*
  - *Protecting public health or safety.*
  - *Protecting the public from being misled by an action or statement of an individual or organisation.*
  - *Disclosing a person or organisation's failure or likely failure to comply with any obligation to which they are subject.*
  - *Disclosing a miscarriage of justice.*
  - *Raising or contributing to a matter of public debate, including serious cases of impropriety, unethical conduct or incompetence concerning the public.*
  - *Disclosing concealment, or likely concealment, of any of the above.*
2. *There is a public interest in freedom of expression itself.*
3. *The regulator will consider the extent to which material is already in the public domain or will become so.*
4. *Editors invoking the public interest will need to demonstrate that they reasonably believed publication - or journalistic activity taken with a view to publication - would*

*both serve, and be proportionate to, the public interest and explain how they reached that decision at the time.*

*5. An exceptional public interest would need to be demonstrated to over-ride the normally paramount interests of children under 16.*

### **Findings of the Committee**

8. The Committee acknowledged the complainant's distress that information which she had chosen to disclose to a small number of people had been published by the newspaper without her knowledge or consent. It was a matter of considerable regret that the publication had failed to contact her prior to publication.
9. The article had reported on alleged serious governance issues at the hospice with a particular focus on the pressures which had been placed upon the complainant's department in order for it to meet its targets. The complainant occupied a public-facing role which required her to engage regularly with both internal and external stakeholders. It was not intrusive to report the fact that the complainant was on leave from work in those circumstances: her absence from the hospice would have been self-evident. However, the reason for the complainant's absence from work was given as "stress related issues". This represented private information about her under the terms of Clause 2, both because it was a medically-diagnosed condition, and because it represented a detail of her private life. This was not a detail which would have been widely known within or outside the organisation in which she worked. This was information over which the complainant had a reasonable expectation of privacy, and the publication required a substantial public interest in order to justify its inclusion in an article which mentioned her by name.
10. The article had highlighted the alleged unreasonable pressures faced by the fundraising department, and allegations of a "culture of bullying" at the hospice. It said that grievance procedures had been taken out by staff in relation to bullying allegations, and also discussed the validity of the hospice's claim to be struggling for funds. The Complainant was a senior member of a key department, and was therefore associated with the allegation of undue pressure and with the wider funding issue. In this context, the disclosure of the reason for the complainant's absence from work illustrated the extent to which these alleged failings had seemingly had an impact on the running of the hospice, by suggesting that a senior member of staff had been adversely affected as a result, to the extent that she had felt the need to take time off work. There was a significant public interest in identifying the reason for the complainant's absence, where it illustrated the article's concerns regarding alleged management failings at the hospice, which was an important and well-known local organisation which many readers would have been aware of. This public interest was sufficient to justify publication of this information, and there was no breach of Clause 2 on this point.

### **Conclusions**

11. The complaint was not upheld.

### **Remedial action required**

N/A

## APPENDIX G

### Decision of the Complaints Committee 20445-17 De Groote v thetimes.co.uk

#### Summary of the Complaint

1. Cecilia De Groote complained to the Independent Press Standards Organisation that thetimes.co.uk breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "Violinist found not guilty of abusing prosecutor wife" published on 3 December 2016.
2. The article reported that the complainant's estranged husband had been found not guilty of alleged physical and mental abuse towards his wife, who was a prosecutor, and their son, after a sheriff ruled that the complainant's evidence "could not be relied upon." The article detailed the abuse the defendant had been accused of, but stated that the sheriff who presided over the trial "said the evidence of Mrs De Groote and other witnesses in the case could not be relied upon" and had found the defendant not guilty of the three charges he faced.
3. The complainant said that the article was inaccurate, as the Sheriff had not stated that the complainant, or her evidence was unreliable. She had not been in court at the time, but had confirmed with the sheriff that he had in fact stated "I have considered the evidence and submissions. I consider the evidence presented by the Crown in this trial is not of such a quality that I can rely on it, to be satisfied on it, beyond reasonable doubt, in respect of the essential elements in respect of these charges. Therefore the verdict in respect of each is not guilty."
4. The complainant said that when a sheriff states that they cannot rely on the evidence, it means that the evidence does not reach or meet the high threshold for criminal liability; it does not mean the evidence or the witness who gave that evidence is unreliable. She said that there were four witnesses who gave evidence during the trial, and the judge did not refer to her, or her evidence specifically, when giving his judgment. She said the article gave the misleading impression that she was unreliable and suggested she was not fit to hold the role of prosecutor. She also said that reporting such as this would deter other victims of domestic abuse from coming forward.
5. The publication apologised for any upset the article had caused the complainant; however it said the article was accurate and did not breach the Editors' Code. It said that the sheriff had stated "the evidence presented by the Crown in this trial is not of such a quality that I can rely upon it to be satisfied beyond reasonable doubt", which clearly included the complainant's evidence as well as other witnesses. It said the sheriff was very clear that the reason he reached a not guilty verdict was unreliable evidence, as he had expressly avoided giving a verdict of not proven, which is available in cases in Scotland where the evidence is unclear.

6. The publication said the article did not suggest that the complainant was unreliable, or unfit to hold office, but had accurately reported that in this case, her evidence could not be relied upon. The publication said that the article was a fair and accurate report of the outcome of the trial.

### Relevant Code Provisions

#### Clause 1 (Accuracy)

- i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.
- ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and- where appropriate- an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

### Findings of the Committee

7. The Committee acknowledged the complainant's concern that she believed the article would discourage people who experience domestic abuse to come forward. However, the question for the Committee was whether the publication had failed to take care to report court proceedings accurately. It was accepted that the Sheriff had stated that "the evidence presented by the Crown in this trial is not of such a quality that I can rely upon it to be satisfied beyond reasonable doubt". The article had made clear that the complainant was not the only witness in the case, and in circumstances where the evidence of the complainant had been part of the evidence presented by the Crown, the publication had taken care over the accuracy of the statement included in the article that the sheriff had found that the complainant's evidence could not be relied upon, and had not mischaracterised his remarks. Reporting this did not represent a significant inaccuracy, and therefore there was no breach of Clause 1 on this point.
8. The article did not make any broader claim about the complainant's reliability or her professional ability. Therefore, the article was not misleading in the way the complainant had suggested, and there was no breach of Clause 1 on this point.

### Conclusions

9. The complaint was not upheld

### Remedial Action Required

10. N/A