
MINUTES of the COMPLAINTS COMMITTEE MEETING
Tuesday 20 July at 10.30am
FieldFishers, Riverbank House, 2 Swan Ln, London EC4R 3TT

Present

Lord Edward Faulks (Chairman)
Andrew Brennan (*remotely*)
Janette Harkess
David Hutton
Alastair Machray
Helyn Mensah (*remotely*)
Asmita Naik
Miranda Winram
Mark Payton
Andrew Pettie
Miranda Winram
Peter Wright

In attendance:

Charlotte Dewar, Chief Executive
Michelle Kuhler, PA and minute taker (*remotely*)

Also present: Members of the Executive:

Elizabeth Cobbe
Jane Debois (*remotely*)
Rosemary Douce (*remotely*)
Alice Gould
Sebastian Harwood
Emily Houlston-Jones (*remotely*)
Natalie Johnson (*remotely*)
Chloe McKiver (*remotely*)
Molly Richards
Martha Rowe (*remotely*)

Observers:

Jonathan Grun, Editors' Code of Practice Committee (*remotely*)
Claire Singers, IPSO Board member (*remotely*)

1. Apologies for Absence and Welcomes

Apologies were received from Nazir Afzal. The Chairman welcomed Robert Morrison, who would be joining IPSO as Head of Complaints in August, as an observer. He also welcomed Jonathan Grun and Claire Singers to the meeting.

2. Declarations of Interest

There were no declarations of interest received.

3. Minutes of the Previous Meeting

The Committee approved the minutes of the meeting held on 25 May.

4. Matters arising

There were no matters arising.

5. Update by the Chairman – oral

The Chairman thanked Peter Wright and Janette Harkess for the valuable contribution to the Committee during the duration of their appointments.

6. Complaints update

The Chief Executive updated the Committee of complaints of interest.

7. Complaint 10506-20 The Russian Direct Investment Fund, Ekaterina Kvasova and Polina Petrova v The Times

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

8. Complaint 11054-20 Buchanan v Telegraph.co.uk

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

9. Complaint 30061-20 A woman v hertfordshiremercury.co.uk

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

10. Complaint 03742-21 Chambers v Daily Star

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

11. Complaint 03066-21 Brian and Declan Arthurs v Sunday World

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

12. Complaint 01887-21 Rahnama v The Mail on Sunday

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

13. Complaint 02644-21 Metropolitan Police v Mail Online

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

14. Complaints not adjudicated at a Complaints Committee meeting

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

15. Complaints Committee Policy Paper

The Committee discussed the assignment of responsibility for complaints made against titles that share content.

The Committee had a discussion regarding the paper and offered comments. The Chief Executive took questions from the members.

16. Any other business

There was no other business.

17. Date of next meeting

The date of the next meeting was confirmed as 7th September 2021.

The meeting ended at 1.55pm

Appendix A

Decision of the Complaints Committee – 10506-20 The Russian Direct Investment Fund, Ekaterina Kvasova and Polina Petrova v The Times

Summary of Complaint

1. The Russian Direct Investment Fund, Ekaterina Kvasova and Polina Petrova complained to the Independent Press Standards Organisation that The Times breached Clause 1 (Accuracy), Clause 10 (Clandestine devices and subterfuge) and Clause 12 (Discrimination) in an article headlined “Client offered me prostitutes at Davos party, says consultant” published 24 March 2020.
2. The article also appeared as two online articles headlined “Client offered me prostitutes at Davos party, says consultant” and “Davos investigation: champagne flowed and music played as women greeted guests” published on 23 and 24 March respectively.
3. The print article reported on concerns about sexual harassment and sexism at events taking place over the week of the World Economic Forum (WEF) held at Davos. The article led with allegations – unconnected to the Russian Direct Investment Fund (RDIF) or its event – regarding the presence of “prostitutes” at Davos, with the assertion that “at least 100 sex workers travel to Davos” during the week of the WEF. It referenced “the prevalence of sex workers” at the evening events which took place alongside the formal conference and also mentioned one such event in 2019, again unrelated to the RDIF, where a guest alleged that he had been “offered...prostitutes”. It then proceeded to discuss an evening event held during the week of the 2020 WEF which had been hosted by the RDIF, the Russian sovereign wealth fund, on 21 January 2020. The article reported that “Guests arriving at the [event] were greeted [...] by eight beautiful young women” and that “[s]everal people got the impression that they were sex workers”. It went on to report that when “[a]sked by an undercover reporter how the women had behaved towards guests, [an anonymous] staff member replied: ‘Oh very friendly, trust me.’ ‘How friendly?’ the reporter asked. ‘They would do something for you, definitely,’ he said”. According to the article, “[t]wo other members of staff said that they also thought the women were offering sexual services in exchange for money. One [...] claimed that she witnessed a female party organiser directing some of the hostesses to leave with certain men. Asked how she knew whether the women were offering sexual services, she said: ‘They don’t tell you who they are, but you understand.’” A third member of staff also “claimed that some of the women left in the company of men”.
4. The article also reported that “Ekaterina Kvasova, head of corporate marketing at RDIF [...] recruited the hostesses” and that when “[a]sked about the selection criteria [by an undercover reporter, she] admitted: ‘We were looking only for looks and only for ambience, nothing else’”. The article reported that she “also told the undercover reporter that the hostesses were not escorts. ‘Frankly speaking some of them were actually students from quite a reputable

school speaking two or three languages,' she said. However, she admitted that she had felt it necessary to warn the women to behave themselves, telling a reporter that she had told them they were there for 'ambience' and that if any of them did anything more than that they would have difficulty getting out of the country". The article also noted that "[i]n a statement, RDIF said that the women were hired to meet guests and provide information about the programme for the event. This was necessary because there were 450 attendees and only 20 employees at the event. They 'strenuously denied that any of the women were escorts or that they had been directed to leave with men'". That the RDIF had "strenuously denied [that the hostesses] were offering sexual services" was also repeated elsewhere in the article.

5. The online articles contained the same information but appeared as two distinct articles. The first - "Client offered me prostitutes at Davos party, says consultant" - focused on concerns about sexual harassment and sexism at events taking place over the week of the World Economic Forum (WEF) at Davos and allegations – unconnected to the RDIF or its event – regarding the presence of "prostitutes" at Davos. It did briefly mention the RDIF's 2020 event, stating that it had "held a nightcap event for investors [at which e]ight women had been flown over from Moscow to work as hostesses". It noted that "the atmosphere at the event was such that several people there got the impression that they were sex workers". The second online article – "Davos investigation: champagne flowed and music played as women greeted guests" – discussed the RDIF's 2020 event in more detail and included the comments and impressions of the anonymous staff members which had been included in the print article.

6. The complainants said that the article was inaccurate in breach of Clause 1. They said that the number of quotes from anonymous staff members and sources included in the article gave the impression that the RDIF had invited sex workers to its event whom it directed to provide sexual services to specific male guests, which it said was false. In support of its position, it provided witnesses statements from two of the eight externally recruited hostesses, a member of staff at the hotel where the event had taken place, and the father of a pianist who had performed at the event, who had also been in attendance. The RDIF also provided a letter from the hotel at which the hostesses had been staying confirming that all eight had returned to the hotel at 3am and had spent the night there. It also provided a written brief sent to the hostesses by the event organiser prior to the event. Whilst the complainants did not dispute that some anonymous event staff members had made the comments attributed to them in the article, they considered that the views they had expressed were neither genuinely held nor reliable. Further, the complainants also said the article was misleading as to what Ms Kvasova had told the undercover reporter in the two phone calls. They denied that Ms Kvasova had said that the RDIF was "looking only for looks and only for ambience" when recruiting the women. They also disputed the claim that she had told the undercover reporter that "she had told them [the hostesses] they were there for 'ambience' and that if any of them did anything more than that they would have difficulty getting out of the country". Ms Kvasova accepted that she told the undercover reporter that, hypothetically, sex

work could have been unlawful and get the hostesses in trouble with the local authorities. Following the production of an audio recording of the first phone call taken by the publication, Ms Kvasova accepted that she had in fact told the reporter that the RDIF was “looking only for looks and only for ambience” when recruiting the women. However, she said that the word “ambience” was adopted by her after it had first been used by the undercover journalist in a way which implied it meant the opposite of escort, and that therefore her words had been reported out of context. Finally, the complainants said they were denied a fair opportunity to reply as the RDIF’s statements were only partially published and that there had been a breach of the Code because the publication failed to refrain from publishing the article after being told that it was inaccurate.

7. The complainants also said that the article had breached Clause 10 as the undercover journalist had employed subterfuge when speaking to Ms Kvasova in the two phone calls. Finally, they argued that the article was discriminatory towards the RDIF, Ms Kvasova and Ms Petrova in breach of Clause 12. They considered that the allegations that the RDIF employed sex workers constituted a pejorative reference to sex within the meaning of the Clause and stressed that the article did not make any distinction between the external event staff and the two permanent female RDIF employees who were present – Ms Kvasova and Ms Petrova, thereby entitling them to make a complaint.

8. The publication said that in November 2019, four months prior to the publication of the article, the publication had agreed to undertake a joint investigation with the producers of a TV programme into allegations of sexual harassment and sex work at events which took place during the World Economic Forum at Davos. According to the newspaper, two days after the RDIF’s event in January 2020, it received information from a source connected to a guest at the RDIF party who described a sexually inappropriate atmosphere at the event. Two journalists from the publication then attended an unconnected event at the same hotel where the RDIF event had taken place, in order to gather further information as they considered that staff members might also have been present at the RDIF’s party two days prior. They attended the event under their own identifies but spoke to guests and members of staff whilst posing as employees of a private family office interested in making investments, although they said that this rarely came up in conversation. Some of the members of staff they spoke to alleged, among other things, that the hostesses at the RDIF party may have been offering sexual services and been instructed to do so. The publication said that these conversations were recorded by hidden camera and in notes taken on a journalist’s phone and that all quotes used in the article had been filmed. Following deliberations at editorial level, it was decided that Ms Kvasova, head of corporate marketing at RDIF, should be approached, and a phone call took place between an undercover journalist and Ms Kvasova on 27 February 2020, after the journalist had obtained her contact details from the hotel at which the RDIF’s event had taken place. The undercover journalist made this approach under the pretext of being involved in the organisation of a real estate event and wanting to find out more about how RDIF had organised its event. After the first phone call, the publication decided that the undercover journalist

should make a second phone call to seek further information regarding the claims that the hostesses may have been acting as sex workers. The second call with Ms Kvasova took place on 6 March 2020.

9. The publication argued that under Regulation 8(a) of IPSO's Regulations, standing to bring complaints under Clause 10 and Clause 12 is limited to natural persons who have been directly affected by the alleged breach. The publication argued that the RDIF, as a Russian government body, did not have standing to bring complaints under these Clauses.

10. In any event, the publication did not accept it had breached the Code. It emphasised that it did not adopt as fact the allegations made by anonymous sources and stressed that the article had made clear these were the comments and impressions of third parties. It also stressed that it had included the RDIF's denials in its article, as well as the comments made by Ms Kvasova's to the undercover journalist that the hostesses had not engaged in sex work.

11. In relation to Clause 10, the publication emphasised that the issues covered by the investigation and article, around the treatment of women at events taking place over the week of the World Economic Forum, were of significant public interest. It considered that it had received credible claims from sources at the hotel at which the RDIF event had taken place before making the approach to Ms Kvasova. Further, it said given the sensitive nature of sex work, it had reasonably considered that it would be impossible to explore RDIF's motivations for hiring the hostesses, nor the truth of the allegations made by third parties, by approaching RDIF through official channels. It argued that the level of subterfuge used was proportionate to the public interest and that the decision to make a clandestine approach was made following extensive discussion at editorial level and with legal advisers. Finally, it said there was a public interest in publishing the information it had obtained: Ms Kvasova's remarks reflected the attitude of RDIF towards women and the inclusion of her denial that the women had offered sexual services was integral to the accuracy of the story.

12. In relation to Clause 12, the publication stated that Ms Petrova was not identified in the article and that there was no reference to her sex within the meaning of Clause 12. It also stressed that Ms Kvasova was identified in the article as the "head of corporate marketing at RDIF" who "recruited the hostesses". She was not therefore referred to as one of the hostesses whom sources had commented had appeared to be prepared to engage in sex work and the article could not be discriminatory towards her in the way the complainants had argued.

13. In response, with regards to Clause 10, the complainants accepted that gender equality, sexism and the treatment of women at events taking place during the week of the World Economic Forum were issues of significant public interest. However, they argued that the article did not deal with these issues of public interest and stressed that there was no public interest in publishing the information obtained through the clandestine approach.

14. During the referral period, the publication offered to make additions to the two online articles to reflect the denials contained in the witness statements provided after publication by two of the hostesses at the event.

15. The complainants did not accept this offer as they considered a correction to be the appropriate remedy.

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.
- 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 10 (Clandestine devices and subterfuge)*

- i) The press must not seek to obtain or publish material acquired by using hidden cameras or clandestine listening devices; or by intercepting private or mobile telephone calls, messages or emails; or by the unauthorised removal of documents or photographs; or by accessing digitally-held information without consent.
- ii) Engaging in misrepresentation or subterfuge, including by agents or intermediaries, can generally be justified only in the public interest and then only when the material cannot be obtained by other means.

Clause 12 (Discrimination)

- i) The press must avoid prejudicial or pejorative reference to an individual's, race, colour, religion, sex, gender identity, sexual orientation or to any physical or mental illness or disability.

*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.

Relevant Regulations

Regulation 8

The Regulator may, but is not obliged to, consider complaints: (a) from any person who has been personally and directly affected by the alleged breach of the Editors' Code; or (b) where an alleged breach of the Editors' Code is significant and there is substantial public interest in the Regulator considering the complaint, from a representative group affected by the alleged breach; or (c) from a third party seeking to correct a significant inaccuracy of published information. In the case of third party complaints the position of the party most closely involved should be taken into account. The Regulator may reject without further investigation complaints which show no prima facie breach of the Editors' Code and/or are without justification (such as an attempt to argue a point of opinion or to lobby) and/or vexatious and/or disproportionate.

Findings of the Committee

16. The article reported on concerns about sexual harassment and sexism at events over the week of the World Economic Forum (WEF) at Davos. It featured allegations – unconnected to the RDIF or its event – regarding the presence of “prostitutes” at Davos, and the assertion that “at least 100 sex workers travel to Davos” during the WEF. The detailed account of the RDIF party had, therefore, been included in an article which discussed the prevalence of sex workers at Davos, and the Committee considered the complaint with this in mind.

17. The Committee noted that many of the reported comments concerning the alleged conduct of the women at the RDIF event were clearly presented as subjective impressions and were not reported as unequivocal statements of fact. For example, the article reported that two members of staff at the hotel at which the event was held “thought” the women may have been offering sexual services and that they “underst[ood]” this to be the case. The article also reported that several people “got the impression” that the women were sex workers. The article also included observations made by members of staff, which were clearly presented as such, that the women had appeared to be “very friendly” towards guests and that some of the women had left “in the company of men”. These reported impressions were balanced with the inclusion of the denial of the RDIF that the women were offering sexual services, which was repeated on a number of occasions throughout the article, and the denial of Ms Kvasova given during her conversations with the undercover journalist. While the Committee understood the complainants’ concerns, on balance it was satisfied that the presentation of the subjective impressions of third parties who had attended the event, which were clearly identified as such, coupled with the inclusion of the denials both from RDIF and Ms Kvasova, were sufficient to meet the requirements of Clause 1 (i); the publication had taken care not to publish inaccurate, misleading or distorted information. Given the manner in which the impressions of the third parties had been presented in the article, and that the article had not reported these as fact, there was no significant inaccuracy which required correction under Clause 1(ii).

18. The complainants first said that it was misleading to report that Ms Kvasova had admitted to the undercover reporter that the RDIF was “looking only for looks and only for ambience, nothing else” when recruiting the hostesses. It was later accepted that Ms Kvasova had said these words, as a recording of the phone call had been made, the authenticity of which was not in dispute. The complainant said, however, that the word “ambience” had been used by Ms Kvasova because it had first been used by the undercover journalist. Bearing this in mind, the Committee considered whether the way in which the quote had been included in the article was misleading such as to give rise to a breach of Clause 1. Newspapers are generally free to report the comments of individuals where they do so accurately and clearly attribute the comments to the person who made them. Having listened to the recording, the Committee was satisfied that Ms Kvasova’s comments had not been reported out of context; they appeared in a separate paragraph in the article. There was no breach of Clause 1 on this point.

19. The complainants had also said it was inaccurate to report that Ms Kvasova told the undercover reporter that “she had told them [the hostesses] they were there for ‘ambience’ and that if any of them did anything more than that they would have difficulty getting out of the country”. The Committee noted that it did not have a recording of the phone call in which these remarks were allegedly made, but that it did have a reporter’s note of the conversation and that the recording of the second phone call demonstrated that Ms Kvasova had said that the women were recruited to provide “ambience”. Given that Ms Kvasova had referred to “ambience” as the reason the women were at the event in the second phone call and that the reporter’s notes evidenced that she had also said this in the first phone call, the Committee did not find a breach of Clause 1 on this point. Whether or not she had relayed this information to the women themselves, as reported, was not a significant detail within the context of the article. With regards to the report that Ms Kvasova had told the reporter that she said “if any of them did anything more than that they would have difficulty getting out of the country”, the article did not report that this was what Ms Kvasova had actually told the hostesses; only that she had told the undercover reporter that she had said this. It was accepted that Ms Kvasova had said to the reporter that, hypothetically, behaviour such as sex work could lead to trouble with the authorities and legal difficulties. As such, to report that Ms Kvasova had said to the reporter that she had told the women engaging in such activities would have “difficulty getting out of the country” was not significantly misleading as to Ms Kvasova’s views. In light of this and the record of Ms Kvasova’s comments in the reporter’s notes, there was no breach of Clause 1 in relation to the reporting of these remarks.

20. The Committee noted the publication’s argument that Regulation 8(a) meant that the RDIF did not have standing to bring a complaint under Clause 10 and Clause 12. However, the publication accepted that the clandestine approach was made to the RDIF to explore the RDIF’s motivations for using sex workers, if this claim was true. The individual who was subject to the clandestine approach, Ms Kvasova, was acting in her professional capacity as a member of staff of the RDIF. For these reasons, the RDIF was directly affected by the alleged breach of Clause 10 and had standing to complain. In relation to Clause 12, the complainants’ concerns related to allegedly pejorative references to the protected characteristics of individuals. This part of the complaint only related to Ms Kvasova and Ms Petrova. The RDIF, as a body, did not have standing under Clause 12.

21. It was not in dispute that the undercover journalist had engaged in misrepresentation within the meaning of Clause 10 in his two phone calls to Ms Kvasova. The issue for the Committee was whether this misrepresentation, and publishing the information uncovered through it, was justified in, and proportionate to, the public interest.

22. How women are treated at events during the week of the World Economic Forum in Davos, including the availability of sex workers, allegations of sexual harassment and sexist attitudes towards women, are issues of undeniable public

interest. The two undercover approaches to Ms Kvasova, about the impressions of third parties that sex workers may have been in attendance at the RDIF event, were part of an investigation that related to these matters of public interest. The two approaches were made only after concerns had been raised by a number of sources who had attended the RDIF's event and were made in order to investigate the position. It was reasonable to expect that an open approach to the RDIF would not have been successful in obtaining information which might corroborate the comments made by the third party sources, given that hiring sex workers would be controversial. The Committee noted that the undercover approaches had not uncovered any evidence that women at the RFID party were sex workers. Nevertheless, including the information gained from these approaches in the article was reasonably part of the efforts to take care over the accuracy of the story, and showed that Ms Kvasova's unofficial remarks to an undercover journalist tallied with the RDIF's 'on the record' denial of the allegations. Further, the undercover approaches had revealed information about the role of and views towards women who had been engaged to appear at an event taking place during the week of the WEF, namely the admission that the women had been hired because of their appearance. This information, which was included in the published article, did relate to the wider issues of public interest around the treatment of women at Davos. For these reasons, the actions taken by the undercover reporter, and the decision to publish the information he gathered, was justified in the public interest. There was no breach of Clause 10.

23. The complainants had said that the article discriminated against the two permanent female RDIF employees at the event: Ms Kvasova and Ms Petrova. Ms Petrova was not identified within the article and there was no reference, pejorative or otherwise, to Ms Petrova's sex in the article. Ms Kvasova was identified as the "head of corporate marketing" at the RDIF and it was reported that she had "recruited the hostesses" in respect of whom the third parties had made the reported comments: she was not the subject of the comments herself. The reference that the complainants had said was discriminatory, namely the comments that the women may have been prepared to engage in sex work, did not therefore apply to Ms Kvasova. There was no breach of Clause 12 on these points.

Conclusion

24. The complaint was not upheld.

Remedial Action Required

25. N/A

Date complaint received: 19/06/2020

Date complaint concluded by IPSO: 16/08/2021

Appendix B

Decision of the Complaints Committee – 11054-20 Buchanan v Telegraph.co.uk

Summary of Complaint

1. Mark Buchanan complained to the Independent Press Standards Organisation that Telegraph.co.uk breached Clause 1 (Accuracy) in an article headlined “‘The science’ was right – it was the Government that was wrong” published 12 June 2020.

2. The article reported on the concern about “the explosion of fake news about the [Covid-19] virus”. The writer commented that the “biggest fake news about the virus has been disseminated by the mainstream media. I’m thinking of the myth that the government’s scientific advisors urged Boris Johnson to impose a full lockdown long before March 23”. It went on to state that “This narrative received a boost on Wednesday when professor Neil Ferguson...told MPs that if the government had locked down a week earlier the death toll would be considerably lower. ‘The epidemic was doubling every three to four days before lockdown interventions were introduced,’ he told a select committee”. The writer commented that “What’s so odd about Professor Ferguson’s remarks on Wednesday is there’s no reason to think infections were doubling every three or four days in the week before lockdown. Simon Wood, professor of statistical science at Bristol University, published a paper on June 1 showing that the R number in England and Wales was less than 1 before March 23. The same conclusion has been reached by Carl Heneghan, professor of evidence-based medicine at Oxford...The myth that’s grown up around the lockdown, then, is the opposite of the truth” and has led to “one of the worst decisions in our history [the decision to lock down]”.

3. The complainant said the phrase “there’s no reason to think infections were doubling every three or four days in the week before lockdown” was inaccurate. Official ONS statistics showed that cases of Covid-19 had doubled every 3.1-3.3 days in the week prior to March 23; and a member of the cabinet, Michael Gove, had publicly said this at the time at a daily government briefing. Further, the complainant said that the disputed claim was clearly presented as a claim of fact.

4. The publication did not accept it had breached the Code. It said that the article was readily recognisable as a comment piece. It said that the phrase - “there’s no reason to think” - was clearly rhetorical. It said the phrase was not meant to be taken literally; and that readers would know the columnist did not think that Professor Ferguson, an eminent epidemiologist, had literally no reason for making his statement that the epidemic had doubled in the week to March 23. It considered that readers would infer that the columnist thought there was “no [good] reason” to think infections were doubling as he preferred the evidence to the contrary, which had been elsewhere mentioned in the article. Further, it said that a more recent statement from the government’s chief medical officer -to the effect that the R number had gone below 1 before 23 March- also supported the columnist’s view. Finally, whilst it did not dispute that the official figures showed that recorded cases of Covid-19 had doubled over the period, it disputed whether these figures were a reliable guide to the number of

infections. It said that the figures on recorded cases were likely to have been distorted by the increased rate of testing over this period; the unreliability of the test; and the fact that high-risk groups such as medical professionals were being disproportionately tested. This meant that the recorded cases did not accurately reflect the rate of infections in the population at large.

5. In response to the publication's position that the official figures for recorded Covid-19 cases were not a reliable guide for the number of infections, the complainant accepted that no data is beyond questioning but said that this did not support the columnist's unequivocal statement that there was "no reason" to think infections were doubling every three or four days in the week before lockdown. He also said that basic epidemiological models predict early exponential growth in infections if a virus enters into a population with no pre-existing immunity. The data appeared to reflect this, indicating its reliability. He said that concerns that increased testing would have made the figures unreliable as a measure of infections in the population at large were unfounded; it was unlikely that a rapid increase in testing over a week would materially distort the official figures, especially given the widely perceived failure of the government to get adequate testing in place at the time.

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

Findings of the Committee

6. Columnists are free under the Editors' Code to campaign, to be partisan, and to express an opinion. This includes offering an opinion on the state of scientific evidence and critiquing the views of leading scientists or questioning official data. Such a right accords with the fundamental right to freedom of expression guaranteed by the Preamble to the Editors' Code. Nonetheless, newspapers must still abide by the terms of Clause 1, which require a newspaper to take care not to publish inaccurate or misleading information, and to correct significant inaccuracies promptly and with due prominence.

7. The columnist described the claim that infections "were doubling every three or four days in the week before lockdown" as "odd", a "myth", part of an

“explosion of fake news” and the “opposite of the truth”, and he cited two sources which he said demonstrated that the R-number had reduced to below 1 by this time and that the pandemic was subsiding. In these circumstances, his claim that there was “no reason” to believe that infections were doubling constituted a claim of fact that evidence for this position was not merely weak but so absolutely lacking that it constituted a demonstrable falsehood.

8. The complainant challenged this on the grounds that the ONS’ recorded case data did provide a basis for the claim that infections were doubling during this period.

9. The Committee considered in detail the publication’s argument that the ONS figures on recorded cases could not be relied upon in any way as a guide to infections. For example, the publication had said that the PCR tests used to identify cases were unreliable; however, the scientific paper the publication relied upon for this claim estimated that false-positive results could represent somewhere between only 0.8% and 4% of overall test results. Additionally, the publication had said that the numbers of people tested had rapidly increased in the weeks before lockdown; however, the article’s claim was about the infection rate over the seven days before lockdown only. The publication did not provide evidence that the rate of testing had increased rapidly during this specific period. The Committee concluded that the publication had not established that the ONS figures in the week before lockdown were so unreliable to the extent that they did not constitute “reason to think” infections had doubled over the period.

10. The Committee concluded that the presentation of the claim that there was “no reason” to think that infections were doubling constituted a failure to take care over the accuracy of the article, and that the result was a significantly misleading statement, requiring clarification under Clause 1 (ii).

11. The misleading statement was on a topic of public importance and was used to support the article’s broader point that the lockdown was “one of the worst decisions in our history”. As the publication had not offered to correct the significantly misleading statement, there was a breach of Clause 1 (ii).

Conclusions

12. The complaint was upheld.

Remedial Action Required

13. Having upheld the complaint, the Committee considered what remedial action should be required. In circumstances where the Committee establishes a

breach of the Editors' Code, it can require the publication of a correction and/or adjudication, the nature, extent and placement of which is determined by IPSO.

14. The Committee noted that the disputed claim was on an issue of significant scientific debate and was made in the context of a polemical opinion piece. Notwithstanding the Committee's conclusion that the claim under complaint had constituted a claim of fact that the publication had not been able to support, it acknowledged that it had been made in the context of expression of opinion, and it should be slow to inhibit the right of columnists to debate on important issues. In light of these considerations, the Committee concluded that a clarification was the appropriate remedy.

15. This clarification should be added to the online article and appear as a standalone clarification in the online corrections and clarifications column. This wording should only include information required to correct the misleading claim: that the article had claimed that there was "no reason to think [Covid-19] infections were doubling every three or four days in the week before lockdown"; and that this was significantly misleading given that evidence was available to support this claim, albeit disputed. The wording should be agreed with IPSO in advance and should make clear that it has been published following an upheld ruling by the Independent Press Standards Organisation. If the publication intended to continue to publish the online article without amendment the clarification should be published immediately beneath the headline. If the article is amended, the clarification should be published as a footnote which explained the amendments that have been made.

Date complaint received: 29/06/2020

Date complaint concluded by IPSO: 20/07/2021

Appendix C

Decision of the Complaints Committee – 30061-20 A woman v hertfordshiremercury.co.uk

Summary of Complaint

1. A woman complained to the Independent Press Standards Organisation that hertfordshiremercury.co.uk breached Clause 4 (Intrusion into grief and shock) and Clause 7 (Children in sex cases) of the Editors' Code of Practice in an article published in May 2020.
2. This decision is written in general terms, to avoid the inclusion of information which could identify a victim of sexual assault.
3. The article reported on the conviction of a man who had been found guilty of multiple offences, including counts of sexual abuse. The article described the man as having filmed himself raping a young child; gave the exact age of the child; the time frame over which the abuse took place; and a reference to the frequency of the abuse. The article reported who had initially alerted the police to the identity of the defendant in relation to separate allegations.
4. The complainant was a family member of the victim. She said that the article breached Clause 7, as the victim of the assault was identifiable. She said that by reporting the precise age of the young child; the time frame in which the abuse took place; reference to the frequency of the abuse; the town the assaults took place in; and the identity of the person who had reported the defendant to the police, readers would be able to work out that the identity of the young victim. She also said a published police report and another newspaper's article, in which the man had not been named, had also reported the age of the victim; the dates of the offences; the age of the man; and the town the offences took place in. The complainant said that the information that had been given in the previous article and the police report, when coupled with the information contained in the article under complaint, led to the victim being identifiable in breach of Clause 7: had been recognised by extended family members, friends of the family and neighbours.
5. The complainant also said that the article intruded into her family's grief and shock in breach of Clause 4. She said the headline of the article, which referred to the rape of a young child, was in itself insensitive and caused grief to the family. The complainant also considered a tweet from one of the journalists who had written the article about the coverage, about the article, and comments in the article on the case, were insensitive in tone and intruded into the shock of the family of the victim.
6. The publication did not accept a breach of the Code; it said that nothing in the report either identified the child or implied their identity. It noted that the standard wording of orders made by the court under the Youth Justice and Criminal Evidence Act 1999 regarding publicity of victims is that "no matter may be published that would identify them, including their name, address, any

educational establishment or any workplace they attend, and any picture of them". It said that age was not one of these features, and that none of the prohibited features had been published in the article. It noted that the town referred to in the article had a population of over 33,500. The publication said that, whilst people may have been able to guess the victim, this was not due to the information contained in the article, and that people may come to their own conclusions outside of the publication.

7. The publication said that the article did not reveal the critical information that would have identified the young child, and it was satisfied that the purposeful omission of several details meant the victim's identity could not be established from the information in the article or the information which was already in the public domain. It noted that the court had previously stated it had no concerns about the media reporting when the article under complaint was published.

8. The publication said that it had not breached Clause 4. It said that a terrible crime had taken place, but reporting it was not enough to engage Clause 4 itself. The publication also said that the tweet could not breach Clause 4 as it was not an enquiry or approach, nor did it have editorial control over the journalist's personal Twitter account, so it could not be considered to be part of the publication.

Relevant Code Provisions

Clause 4 (Intrusion into grief or shock)

In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. These provisions should not restrict the right to report legal proceedings.

Clause 7 (Children in sex cases)*

The press must not, even if legally free to do so, identify children under 16 who are victims or witnesses in cases involving sex offences.

In any press report of a case involving a sexual offence against a child -

- i) The child must not be identified.
- ii) The adult may be identified.
- iii) The word "incest" must not be used where a child victim might be identified
- iv) Care must be taken that nothing in the report implies the relationship between the accused and the child.

Findings of the Committee

9. The Committee recognised the important public interest in reporting on sexual assault crimes, and that the publication had taken steps to reduce the likelihood that the child would be identified as the victim of the assaults for which the defendant had been convicted. While the article did contain some information about the young victim and the circumstances in which the abuse took place, it had omitted a number of pertinent details which may have led readers to identify the victim. Having reviewed the details that had been included, the Committee concluded that they did not identify the victim or otherwise breach Clause 7. The Committee wrote to both parties confidentially, separate to this decision, outlining its reasons in more detail.

10. The Committee acknowledged how distressing the publication of the article was for the complainant and her family; the matters discussed in the article were incredibly sensitive and had caused huge upset. The question for it to consider regarding the article was whether publication had been handled sensitively in the terms of Clause 4. The Committee noted first the context: the article was a report of court proceedings. It set out the gravity of the crimes committed by the man, and the headline, although shocking, accurately represented the seriousness of the case. It did not mock, sensationalise or ridicule the victim or the family of the victim. The report was not insensitive in the terms of Clause 4, and there was no breach of the Code on this point.

11. The complainant had also said that a tweet from the reporter was insensitive in breach of Clause 4. The publication did not have editorial control over the journalist's Twitter account, and therefore the tweet did not constitute material published by the publication. Clause 4 does not only relate to publication, however; it also relates to the activities of journalists in preparing material for publication, in that it requires that "enquiries and approaches must be made with sympathy and discretion". The Committee therefore considered whether the tweet was an "enquiry" or "approach". The tweet was published after the article was published, and was a public comment on the experience of reporting on the case, rather than a comment directed at or to the complainant or her family. On this basis, the Committee concluded that it did not constitute an approach or enquiry of the newspaper. Clause 4 was not engaged. Nonetheless, the Committee took this opportunity to draw attention to the importance of observing the terms of Clause 4 not only in what is published, but also in the reporting process.

Conclusions

12. The complaint was not upheld.

Remedial Action Required

13. N/A

Date complaint received: 23/12/2020

Date complaint concluded by IPSO: 19/08/2021

Appendix D

Decision of the Complaints Committee – 03742-21 Chambers v Daily Star

Summary of Complaint

1. Christine Chambers complained to the Independent Press Standards Organisation that Daily Star breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "RACING MOURNS LOSS OF LAURA", published on 20 April 2021.

2. The frontpage headline directed readers to a tribute on page 21 to Lorna Brooke, a jockey who had died after falling from her horse in a race. A photograph of Ms Brooke appeared alongside the headline on the front page. The main article in the body of the newspaper appeared under the headline "McCOY HEARTACHE FOR FALLEN JOCKEY", followed by the sub-heading "Tributes to tragic rider Lorna, 37".

3. The complainant, a member of the public who also knew Ms Brooke and her family, said that the frontpage headline had incorrectly referred to Lorna Brooke as "Laura". She said that this demonstrated a lack of respect and decency, and amounted to a breach of Clause 1 (Accuracy).

4. The newspaper said that when it was notified of this error, it had published a correction on 24 April in its established Corrections and Clarifications column on page 2. This read:

"The first edition of our front page on Tuesday, April 20, paid tribute to Lorna Brookes and we regrettably spelt her name wrong by calling her Laura Brookes. We sincerely apologise for this error".

5. It subsequently published a further apology, after the publication was made aware that the initial correction had spelt Lorna Brooke's surname incorrectly. The standalone apology and correction was published on 5 May, on page 2, under the headline "LORNA BROOKE":

"ON Tuesday, April 20, in a tribute to amateur jockey Lorna Brooke, who had tragically died after a fall, we spelled her first name incorrectly on the front page of an early edition of the Daily Star. We published a correction, but spelled her surname incorrectly. We are sincerely sorry for these errors and apologise to Lorna's family and friends."

6. The publication maintained that it had taken sufficient steps to address both errors. It said it was deeply embarrassed by these errors and that it was a matter of regret that they had caused distress to the friends and family of Lorna Brooke.

7. The complainant, however, did not consider that the steps taken by the newspaper were sufficient.

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.
- 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

8. The Committee first wished to express its condolences to the family and friends of Lorna Brooke.

9. The Editors' Code makes clear that publications must take care not to publish inaccurate, misleading or distorted information. This is particularly salient in the reporting of deaths and tributes to the deceased, where the utmost care should be taken to avoid making mistakes. The Committee emphasised that in many circumstances typographical errors, including misspellings of a person's name, would not constitute a failure to take care over the accuracy of an article. In this instance, however, the misspelling had been in a front-page reference breaking the news of Ms Brooke's death. In this highly sensitive context, the Committee found that the misidentification of Ms Brooke as "Laura" represented a failure to take care over the accuracy of the article, resulting in a breach of Clause 1 (i) of the Code. Similarly, in the context of a story about Ms Brooke's death, the misspelling of her name was significant and required correction under Clause 1 (ii).

10. As soon as the newspaper became aware of this inaccuracy, it had published a correction. This correction, however, misspelt Lorna Brooke's surname, referring to her as "Brookes". Given the context of the error, this represented a further failure to take sufficient care, in breach of Clause 1 (i).

11. The newspaper had then published a second correction, which had appeared on page 2 a fortnight after the article's publication. This identified both the original error over Ms Brooke's first name and the subsequent misspelling of her surname, correctly identified her, and apologised to Ms Brooke's family and friends for the inaccuracies. In the view of the Committee, the final correction was sufficient to correct the original headline inaccuracy, and the subsequent error within the first correction. It was also appropriate that it had included an apology, given the nature of the original error and the inaccuracy in the first

correction. The Committee was satisfied that it had been published promptly and with due prominence. There was no breach of Clause 1 (ii).

Conclusion

12. The complaint was upheld under Clause 1 (i).

Remedial Action Required

13. The second correction put the correct position on record, apologised for the error and was offered promptly and with due prominence. No further action was required.

Date complaint received: 20/04/2021

Date complaint concluded by IPSO: 18/08/2021

Appendix E

Decision of the Complaints Committee – 03066-21 Brian and Declan Arthurs v Sunday World

Summary of Complaint

1. Brian and Declan Arthurs complained to the Independent Press Standards Organisation that Sunday World breached Clause 2 (Privacy) and Clause 4 (Intrusion into grief or shock) of the Editors' Code of Practice in an article headlined "EX-IRA CHIEF'S COVID BATTLE FOR LIFE", published on 7 February 2021.
2. The article appeared across page 10 and 11 beneath the banner: "COVID-19 CRISIS HIGH-PROFILE REPUBLICAN IN INTENSIVE CARE WITH VIRUS", with the sub-heading reading: "Family and friends rally around as [details of treatment]". The article reported that Brian Arthurs was "[details of prognosis]" at Craigavon Area Hospital after contracting Covid-19. It went on to report that he was suffering from a further condition, and that "family members, who have not been allowed to visit the hospital, are said to be growing increasingly concerned after the ex-terror chief was [details of treatment]". It contained the following comments made by an unnamed source: "Brian is [details of treatment] and is not very well at all [...] the family are very concerned, and it's not helped by the fact that nobody can be with him at the moment because of the virus. There aren't a lot of details about his conditions except he's not very well and needed [details of treatment]". The article made reference to the complainant's past convictions for terrorism and fraud, and his alleged ongoing involvement in criminal activity.
3. The article was illustrated with three images, two of Brian Arthurs alone, and one showing Declan Arthurs standing in front of a pool with Brian Arthurs in the background. The image of the complainants together was captioned "Brian Arthurs' singing son Deaglan posts a selfie of himself, while his dad and mum [name] enjoy a dip in a Marbella villa." The article provided further detail about the circumstances in which the image had been taken and noted that Declan Arthurs had previously unsuccessfully brought proceedings intended to prevent media reporting of his connection to his father.
4. The complainants said the article was a clear breach of Brian Arthurs' right to privacy as it had published, without his consent or permission, private medical information: his diagnosis and his resulting state of ill-health, his prognosis and the treatment he had received whilst in hospital. The complainants maintained that prior to the article's publication this information had been known only to his immediate family and close friends. The complainants said the article had caused considerable distress to the family at a time when Brian Arthurs was in an intensive care unit in hospital and was likely to die. The complainants said this was insensitive and therefore also a breach of Clause 4 (Intrusion into grief or shock).
5. The complainants said that the article further breached Clause 2 (Privacy) by publishing an image of Declan Arthurs, which had been obtained from his personal Instagram page without his consent or permission. The complainants

said that the inclusion of this image alongside the information relating to his father's condition was insensitive and intrusive.

6. The newspaper did not accept that the article breached the Editors' Code. It did not consider that Brian Arthurs had a reasonable expectation of privacy in regard to the published information or, indeed, more generally, given his notoriety and criminal convictions. It further argued that Covid-19 was "not a private health matter" but rather a unique public health emergency and as such the expectation of privacy around it was reduced. In any event, it said that Mr Arthurs' condition, and the medical treatment he had received in hospital, was already in the public domain prior to publication: their original source resided in Dublin – a separate jurisdiction – and the information was then confirmed by "at least two separate sources in Northern Ireland who were not people necessarily privy to access [to the complainant's] inner circle of friends and family". As such, it said that the article did not reveal anything about the complainant which was not already in the public domain and therefore did not intrude into his privacy.

7. Second, the publication considered that there had been a public interest in publishing the story, given Brian Arthurs' "considerable notoriety, gained through his own conduct [and] actions", and a further public interest in the reporting of Covid-19 cases. It argued that it had a moral duty to inform the public of the dangers presented by the virus. On a national level, it said that such stories humanised the virus; thereby helping to tackle misinformation and encourage vaccination uptake. On a local level, such stories helped to support 'track and trace' efforts, informing the community of increased risk.

8. Furthermore, the newspaper did not accept that reporting the treatment Brian Arthurs was receiving was insensitive in breach of Clause 4. It said that Brian Arthurs' family were fully aware of his condition and the article did not reveal any new information, report inaccurate information, or seek to sensationalise events.

9. In addition, the newspaper did not consider that either the article or the image breached Declan Arthurs' right to privacy. It was not in dispute that the image had been obtained from a publicly available social media page, and it displayed only the complainant's likeness. The newspaper said it had originally been published in an article in October 2019, about which the publication had not received a complaint. Further, the newspaper did not accept that Declan Arthurs had an expectation of privacy over his appearance given his participation in a reality television, the related court action and his resultant notoriety.

10. The complainants disputed the newspaper's argument that there should be a diminished expectation of privacy for certain medical conditions as a result of the profile and prevalence of a virus and/or disease; medical information should be treated the same regardless. It also challenged the newspaper's position that an individual convicted or accused of criminal offences did not have an expectation of privacy.

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 4 (Intrusion into grief or shock)

In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. These provisions should not restrict the right to report legal proceedings.

*The Public Interest

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

There is a public interest in freedom of expression itself.

The regulator will consider the extent to which material is already in the public domain or will become so.

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.

Findings of the Committee

11. The terms of the Clause 2 (Privacy) state that everybody is entitled to respect for their private life and health, and the complainant was entitled to the same protection offered by the terms of the Clause as any other person, subject – as with any other person – to exception in the public interest. The article included detailed information about his health: his primary diagnosis and his subsequent diagnosis, his treatment and the prognosis. It was clear to the Committee that the article contained personal medical information over which the complainant had a reasonable expectation of privacy. It was left to the Committee to decide whether the publication of this intrusive information could be justified in the public interest.

12. The Editors' Code notes that there is a public interest in protecting public health and safety, and the Committee acknowledged the role that newspapers play in protecting the health of the wider community in the time of a pandemic by reporting on the transmission, prevalence, and potential severity of the virus. It did not consider, however, that the newspaper had provided an adequate explanation as to how the publication of detailed information about the complainant's state of ill-health and his treatment served to protect public health. Furthermore, while maintaining that the complainant had a diminished expectation of privacy due to his past criminal convictions and alleged ongoing involvement in illegal operations, the publication had not provided a clear explanation as to why these activities meant that there was a public interest in publishing his intimate medical information. Finally, the Committee did not consider that the publication had demonstrated that the information had entered the public domain to any substantial extent, such that the complainant's expectation of privacy would be reduced or eliminated. The Committee concluded that the complainant had a clear expectation of privacy over the information included in the article about his diagnosis, prognosis and treatment, and the publication had not advanced a sufficient public interest argument to justify the intrusion into the complainant's private life. There was a clear breach of Clause 2 of the Code.

13. In the view of the Committee, the publication of the article was not handled with sensitivity or care at a time of shock. The article revealed private medical information whilst the complainant was in an intensive care unit in hospital. This amounted to a breach of Clause 4.

14. Finally, the Committee considered the privacy concerns raised by Declan Arthurs. The disputed image only disclosed the complainant's likeness; it did not disclose any private information and did not show him engaged in private activity. The information was already in the public domain, having featured in a previous article from 2019, following publication on the complainant's publicly accessible social media page. In such circumstances, the Committee did not consider that the complainant had a reasonable expectation of privacy in relation to this image, and its publication did not amount to an intrusion into his private life. There was no breach of Clause 2 on this point.

Conclusion

15. The complaint was upheld.

Remedial Action Required

16. Having upheld the complaint under Clause 2 and Clause 4, the Committee considered the remedial action that should be required. Given the nature of the breach, the appropriate remedial action was the publication of an upheld adjudication.

17. The Committee considered the placement of this adjudication. The adjudication should be published in print, on or before page 10, where the original article appeared. The headline to the adjudication should make clear that IPSO has upheld the complaint, refer to the subject matter and be agreed with IPSO in advance of publication.

The terms of the adjudication for publication are as follows:

Brian and Declan Arthurs complained to the Independent Press Standards Organisation that the Sunday World breached Clause 2 (Privacy) and Clause 4 (Intrusion into grief or shock) of the Editors' Code of Practice in an article headlined "EX-IRA CHIEF'S COVID BATTLE FOR LIFE", published on 7 February 2021.

The article reported the medical condition that Brian Arthurs was suffering from and the treatment he was receiving in hospital.

The complainants said the article was a clear breach of Brian Arthurs' right to privacy as it had published, without his consent or permission, private medical information: his diagnosis with Covid-19 and his resulting state of ill-health, his prognosis, and the treatment he had received whilst in hospital. They said that the article's publication was deeply upsetting for the family whilst they were in a state of grief, maintaining that his condition was only known to a close circle of friends and family.

The newspaper did not accept that the article breached the Editors' Code. It did not consider that Brian Arthurs had an expectation of privacy in regard to the published information or, indeed, more generally, given his notoriety and criminal convictions. It further argued that Covid-19 was "not a private health matter" but rather a unique public health emergency, citing a public interest in reporting on cases and alerting readers to the dangers presented by the virus.

The Committee found that the article had published medical information to which Brian Arthurs' had a reasonable expectation of privacy. Whilst the Committee noted that there was a public interest in protecting public health and safety, it did not consider, however, that the newspaper had provided an adequate explanation as to how the publication of detailed information about

the complainant's state of ill-health and his treatment served to protect public health. Nor did the Committee consider that the newspaper had provided a clear explanation as to why the complainant's past criminal convictions and alleged ongoing involvement in illicit activity meant there was a public interest in publishing this information or demonstrated that these details had entered the public domain to any substantial extent. In such circumstances, the article amounted to an intrusion into the complainant's private life by publishing, without consent, private medical information. There was a breach of Clause 2 of the Editors' Code.

Furthermore, in the view of the Committee, the publication of the article was not handled with sensitivity or care at a time of shock. The article revealed private medical information whilst the complainant was receiving care in hospital. This amounted to a breach of Clause 4.

Date complaint received: 29/03/2021

Date complaint concluded by IPSO: 25/08/2021

Appendix E

Decision of the Complaints Committee – 01887-21 Rahnama v The Mail on Sunday

Summary of Complaint

1. Ali Rahnama complained to the Independent Press Standards Organisation that The Mail on Sunday breached Clause 2 (Privacy) of the Editors' Code of Practice in an article headlined "Farcical", published on 7 February 2021.

2. The article reported that asylum seekers were being housed in a hotel near Heathrow despite the shortage of accommodation for passengers required to enter quarantine after arrival in the UK as part of measures to prevent the spread of Covid-19. It was illustrated with a large photograph of three men in a group, two of whom were wearing face masks, standing or crouching on a curbside. The photograph was captioned: "LAX: Asylum seekers in hotel grounds". The article also quoted several comments by residents of the hotel, such as: "It's not a good system – people are too close together"; and "We can walk around wherever we want. There are lots of people here." The article reported that "Groups of migrants can be seen chatting on smartphones outside the hotel or strolling to a parade of shops in nearby West Drayton". It also noted that the "apparent freedom afforded to the migrants contrasts with the draconian measures awaiting passengers who will be placed in quarantine after flying in to Britain."

3. The article also appeared online under the headline "As Government scrambles to find hotel rooms for its border quarantine plan, a [named hotel chain] two miles from Heathrow is home to 400 asylum seekers... and two nearby migrant detention centres stand almost empty", published on 6 February in substantially the same form. The same image was used, with the caption: "Hundreds of asylum seekers are being housed at a large hotel near Heathrow as the Government struggles to find accommodation for passengers forced to quarantine after arriving from virus hotspots".

4. The complainant was one of the men who appeared in the photograph, wearing a facemask, which accompanied the article. He said that the publication of the photograph intruded into his private life, as it revealed his status as an asylum seeker, and placed him at risk of serious harm, as he was vulnerable for reasons which he explained during IPSO's investigation. He said that his friends and family abroad had been contacted repeatedly by those who had identified him from the photograph, and he worried that the global reach of the article placed his family in his home country at increased risk of harm. He also said that he had, since the publication of the article, been identified while out in public by individuals with anti-immigration views, who had verbally abused and pointed at him. He said that, therefore, even though he was wearing a face mask, he was identifiable from the photograph.

5. The complainant said that the image had been taken in the car park of the hotel in which he was housed; this was not a public space and he considered it to be his home. On this basis, he believed that he had a reasonable expectation of privacy not to be photographed whilst standing there. He said that he had not been aware that he was being photographed.

6. The publication apologised if the publication of the photograph caused the complainant distress or inconvenience, but did not accept a breach of the Code. It said that the fact of being an asylum seeker was not information in respect of which a person has a reasonable expectation of privacy. The article did not describe the complainant's arrival in the UK or asylum claim, but merely pictured him outside a residence housing asylum seekers. The newspaper maintained that the publication of images of asylum seekers in which they were identifiable was common practice in the media.

7. The publication stated that the image had been taken while the complainant was standing in the hotel car park, in clear view of the public. It noted that there was a hoarding around the hotel and part of the car park, but the complainant was standing outside this protected area. Furthermore, a car wash business, which was signposted from the nearby motorway, was also present in the car park. The publication said that the complainant had no reasonable expectation of privacy in these circumstances. It also provided an email from the photographer who said he was taking photographs of the complainant and his companions for around 10-15 minutes; he believed that they were aware of his presence, as he was standing only about 40 metres away, but did not turn away or request that he stop taking photos. The publication said that there was no private information about the complainant in the image – it showed only his likeness, and half his face was obscured by a mask. The publication also noted that upon receipt of a complaint from another representative of the complainant, and prior to the complaint to IPSO, the photograph had been removed from the online article.

8. Furthermore, the publication stated that the publication of the image served to illustrate comments in the article about the free circulation of residents in the hotel despite Covid restrictions.

9. The publication said that whilst no public interest defence was necessary, as there was no reasonable expectation of privacy, there was a public interest in showing how the residents of the hotel had freedom to come and go, and how they were gathering in groups. It said that, prior to publication, discussions had taken place as to whether the faces of the men should be pixelated. Upon viewing the final draft of the article and the manner in which the photograph was presented, an editorial decision was made that there was no reason to obscure the faces of the complainant or his companions, as the publication did not believe the photograph amounted to an intrusion into their private lives. The publication said that, in any case, the publication of the image was covered by the public interest exception of raising or contributing to a matter of public debate.

Relevant Code Provisions

Clause 2 (Privacy)*

- i) Everyone is entitled to respect for their private and family life, home, physical and mental 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.

Findings of the Committee

10. Clause 2 states that everyone is entitled to respect for their private life, home and health and that it is unacceptable to photograph individuals, without their consent, in places where they have a reasonable expectation of privacy. The photograph of the complainant had been taken while he stood in the car park of a hotel, outside the protected area surrounded by hoardings, and in full view of anyone visiting the car park. The photograph did not contain any information over which the complainant had a reasonable expectation of privacy: it simply showed him among a small group of people standing outside whilst his face was partially obscured by a mask. The Committee concluded that the complainant had not been in a location in which he had a reasonable expectation of privacy: while the hotel was his current home, the surrounding car park was accessible to members of the public, and he would have been visible to anyone visiting the space, including residents of the hotel and patrons of the car wash. The publication of the photograph did not breach Clause 2.

11. The caption of the photograph in the print edition of the newspaper stated "LAX: Asylum seekers in hotel grounds" and the caption to the photograph in the online edition began "Hundreds of asylum seekers are being housed...." The complainant said that these captions, in conjunction with the photographs, revealed that he was an asylum seeker, which he said was private information. The Committee acknowledged that details concerning an individual's immigration status may, in certain circumstances, be information in respect of which they have a reasonable expectation of privacy. However, in this instance, the complainant had been pictured outside a hotel which, according to the report, housed hundreds of asylum seekers and in a location in which he did not have a reasonable expectation of privacy. No additional details about the complainant or his immigration status were included in the caption or in the article. The Committee concluded that, in these circumstances, the publication of the article did not amount to an intrusion into the complainant's privacy. There was no breach of Clause 2.

Conclusions

12. The complaint was not upheld.

Remedial Action Required

13. N/A

Date complaint received: 23/02/2021

Date complaint concluded by IPSO: 10/09/2021

Appendix G

Decision of the Complaints Committee – 02644-21 Metropolitan Police v Mail Online

Summary of Complaint

1. The Metropolitan Police complained to the Independent Press Standards Organisation that Mail Online breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "Sarah Everard murder suspect was tracked by plain clothes detectives for several days before they swooped in to arrest him", published on 11 March 2021.
2. The article reported on the Metropolitan Police's search for the suspect in the Sarah Everard murder case. It reported that "Metropolitan Police officer Wayne Couzens ha[d] been arrested on suspicion of her kidnap and murder" after being "tracked by plain clothes detectives for several days". It later noted that "Sources have suggested that plain clothes detectives may have been secretly monitoring the suspect's movements for days before he was arrested". Additionally, it stated that Couzens "works in Parliamentary and Diplomatic Protection Command and is armed as part of his job". It added that "The case has prompted the possibility that perhaps for the first time in the Met's history, armed surveillance officers were watching one of their own firearms officers [Couzens] while he was on duty guarding one of the most important buildings in London". It elsewhere reported that a "police insider said: 'There are two possible approaches the Met could have taken when the officer emerged as the main suspect [one being] to maintain his normal duties whilst having an armed capacity...watching him'".
3. The complainant said that it was untrue that the suspect was either known to or tracked by police for several days before his arrest. In fact, he was located just a few hours before his arrest. In light of this, it was also inaccurate to speculate that he had returned to work after being identified as a suspect. The complainant had contacted the publication shortly after the story was published to express its concern that the article was inaccurate. It said that the publication's failure to promptly delete and correct the article when it was first contacted by the complainant, on the day of publication, was regrettable.
4. The publication said it had relied on an anonymous police source regarding the claim that "The case has prompted the possibility that perhaps for the first time in the Met's history, armed surveillance officers were watching one of their own firearms officers [Couzens] while he was on duty...". However, whilst it said the source was reliable, following the direct complaint from the complainant to the publication, the source had clarified that they could not guarantee the accuracy of this claim. With regard to the claim that Mr Couzens had been "tracked by plain clothes detectives for several days", the publication said this was based on speculation from a neighbour that had appeared in the press. The neighbour had claimed that plainclothes officers had been watching the suspect's property the day before the arrests and that there were unmarked police cars in the street. The publication also emphasised that it had sought the complainant's comments on the claims prior to publication but was told the complainant would not comment.
5. On receipt of the direct complaint from the complainant on the day of publication, the newspaper amended the article. In its first response during

IPSO's investigation after the complainant had provided further clarification on number of points, 47 days after it had first been notified of the complaint through direct correspondence from the complainant (the day after publication), the newspaper offered to remove the article from its website and publish the following standalone correction online:

An article published on 11 March about the arrest of Wayne Couzens on suspicion of the murder of Sarah Everard included claims that Mr Couzens had been allowed to return to work as a firearms officer after having been identified as a suspect, and that he had been tracked by undercover officers for several days before being arrested. We have since been contacted by the Metropolitan Police who have advised that neither allegation is true, which we accept, and the article has been removed from the website. We are happy to set the record straight.

6. The correction was offered 19 days after IPSO began its investigation of the complaint (including a period in which the complaint was being processed by IPSO). The publication said that it had offered a correction once the complainant had confirmed its position.

7. The complainant did not accept this as a resolution to its complaint.

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.

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

8. The claim that the suspect, Mr Couzens, "was tracked by plain clothes detectives for several days before they swooped in to arrest him" was based on speculation by a member of the public, which had been published by another publication. The Committee noted that the publication had contacted the complainant about this claim prior to publication and that the complainant had declined to comment. Nonetheless, the publication of this uncorroborated claim

as fact, including in the headline, represented a failure to take care over the accuracy of the article and a breach of Clause 1 (i).

9. The publication had subsequently accepted that the claim that Mr Couzens had been tracked for several days was inaccurate. This was a significant claim about the conduct of police during the investigation, which implied a potential risk to the public during the period during which Mr Couzens was said to have been observed by police but allowed free movement. It required correction under the terms of Clause 1 (ii). The complainant had contacted the newspaper on the day of publication to notify it that the claim was inaccurate. While the newspaper had promptly amended the article, it had declined to offer a correction, instead asking for clarification on the correct position despite the complainant having confirmed that the published information was inaccurate. It had ultimately offered to correct the claim 47 days after it had been notified of the complaint by IPSO and 48 days after the article's publication. While the Committee recognised the publication's position that during parts of this period the complaint was being processed by IPSO, it noted that the further clarification provided by the complainant at the start of IPSO's investigation did not materially add to the information provided by the complainant direct to the newspaper during the referral period. Furthermore, the complainant had been in a position to provide direct information about the timing of the investigation whereas the publication had relied upon speculation by a single third-party source. In such circumstances, and given the significance of the claim, the Committee concluded that the publication's offer to publish a correction was not prompt, and there was a breach of Clause 1 (ii).

10. The article had reported that there had been a "possibility that...armed surveillance officers were watching one of their own firearms officers [Couzens] while he was on duty". The article did not claim as fact that this had happened, only that there was such a "possibility". This point had also been based on the comments of a police source, and was presented as such. The article also went on to make clear that this "possibility" was posited by a "police insider". The article therefore made clear that the prospect of "armed surveillance officers...watching one of their own firearms officers [Couzens] while he was on duty" was only a "possibility", and made clear it was simply picking up on the speculation of a "police insider". In these circumstances, where the claim was distinguished as conjecture, albeit partly based on the inaccurate claim found to be in breach above, there was no further failure to take care not to publish inaccurate or misleading information with regard to this claim, nor did the article contain a significantly inaccurate or misleading statement relating to this. There was no breach of Clause 1 on this point.

Conclusions

11. The complaint was partly upheld under Clause 1.

Remedial Action Required

12. Having partly upheld the complaint under Clause 1, the Committee considered what remedial action should be required. In circumstances where the Committee establishes a breach of the Editors' Code, it can require the publication of a correction and/or adjudication. The nature, extent and placement of which is determined by IPSO.

13. The significantly inaccurate statement appeared in the headline, was on a topic of considerable public concern, and the newspaper was aware at the time of publication that it was based on speculation by a third party. Whilst the newspaper had taken prompt action to amend the article, there had been a very considerable delay before it offered to correct the public record as it was required to do by the Code. In light of these considerations, the Committee concluded that an adjudication was the appropriate remedy. The headline of the adjudication must make clear that IPSO has upheld the complaint against Mail Online and must refer to its subject matter; it must be agreed with IPSO in advance.

14. The Committee considered the placement of its adjudication. The adjudication should be published in full on the publication's website with a link to the full adjudication (including the headline) appearing on the top third of the newspaper's homepage, for 24 hours; it should then be archived in the usual way. A link to the adjudication should also be published with the article, explaining that it was the subject of an IPSO adjudication, and explaining the amendments that have been made. The terms of the adjudication for publication are as follows:

The Metropolitan Police complained to the Independent Press Standards Organisation that Mail Online breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "Sarah Everard murder suspect was tracked by plain clothes detectives for several days before they swooped in to arrest him", published on 11 March 2021.

The complaint was upheld, and IPSO required Mail Online to publish this adjudication to remedy the breach of the Code.

The article reported on the Metropolitan Police's search for the suspect in the Sarah Everard murder case. It reported that "Metropolitan Police officer Wayne Couzens ha[d] been arrested on suspicion of her kidnap and murder" after being "tracked by plain clothes detectives for several days". It later noted that "Sources have suggested that plain clothes detectives may have been secretly monitoring the suspect's movements for days before he was arrested".

The complainant said that it was untrue that the suspect was either known to or tracked by police for several days before his arrest. In fact, he was located just a few hours before his arrest. It said that the publication's failure to promptly delete and correct the article when it was first contacted by the complainant to express its concerns, on the day of publication, was regrettable.

The publication said the alleged inaccuracy was based on speculation from a neighbour that had appeared in the press. The neighbour had claimed that plainclothes officers had been watching the suspect's property the day before the arrests and that there were unmarked police cars in the street. The publication also emphasised that it had sought the complainant's comments on the claims prior to publication but was told the complainant would not comment. Later, in its first response during IPSO's investigation and 48 days after publication, the newspaper offered to remove the article from its website and publish a standalone correction online accepting that the claim was inaccurate.

IPSO found that the newspaper had failed to take care not to publish inaccurate information in relation to this claim. The claim was based on speculation by a member of the public, which had been published by another publication. The newspaper had published this uncorroborated claim as fact, including in the headline. This failure to take care gave rise to a significantly inaccurate statement; the publication had subsequently accepted that the claim was incorrect and this was a significant claim about the conduct of police during the investigation. Whilst the newspaper had offered a correction on this point, IPSO found that this offer was not prompt given the significance of the inaccurate statement; where it had been based on speculation by a single third-party source; the fact that the complainant had been in a position to provide direct information about the investigation; and the time taken between the newspaper's receipt of the IPSO complaint and its offer of a correction. The newspaper had therefore breached Clause 1.

Date complaint received: 12/03/2021

Date decision issued: 23/08/2021

APPENDIX H

Paper No.	File Number	Name v Publication
2193		Request for review
2194	01695-21	Parrott v Norwich Evening News
2172	28831-20	Ross v thejc.com

2180	00528-21	McDade v The Scottish Sun
2182	01360- 21/01902 - 21/01903 -21	A man and a woman v Liphook Herald/Haslemere Herald/Bordon Herald
2209		Request for review
2210	00661-21	Liberadzki v The Sunday Times
2110	27710-20	Mailey v Sunday Life
2211	27726-20	The Family of Sue Woods v liverpoolecho.co.uk
2216		Request for review
2175	29958-20	Iddon v The Sun
2184	00927-21	A man v Mail Online
2185	02607-21	Various v thesun.co.uk
2188	00913-21	Open Labour v The Sun
2189	00914-21	Open Labour v The Mail on Sunday
2203	01979-21	Parish v express.co.uk
2218		Request for review
2221		Request for review
2204	01958-21	Linehan v metro.co.uk
2234		Request for review
2156	28414-20	Steshov v The Daily Telegraph
2237		Request for review
2226	01413-21	Hanney v express.co.uk
2242		Request for review
2224	03222-21	Woodcock v Sunday Mirror
2238	02714-21	Lynn v Daily Mirror
2228	00599-21	A woman v Liverpool Echo
2217	01432-21	Agbetu v Mail Online
2205	01815-21	Muslim Council of Britain v The Daily Telegraph
2206	01871-21	Muslim Council of Britain v thejc.com
2248		Request for review
2249	00390-21	Collins v Daily Mail
2225	02645-21	Cameron v East Kilbride News
2236	02975-21	Askey v thesun.co.uk
2243	02959-21	Walker v Sandbach Chronicle
2252		Request for review
2245	01843-21	File v express.co.uk
2260		Request for review
2244	03232-21	Henson v examinerlive.co.uk
2253	03143-21	Janes v thenational.scot
2261	04617-21	Hetherington v Scottish Sunday Express
2263		Request for review

