

MINUTES of the COMPLAINTS COMMITTEE MEETING
Tuesday 21 April 2020 at 10.30am
Via Video Conference Call

Present Lord Edward Faulks (Chairman)
 Richard Best
 Nazir Afzal
 Andrew Brennan
 David Hutton
 Lara Fielden
 Janette Harkess
 Helyn Mensah
 Mark Payton
 Andrew Pettie
 Peter Wright

In attendance: Charlotte Dewar, Acting Chief Executive
 Michelle Kuhler, PA and minute taker
 Holly Pick, Joint Head of Complaints
 Lauren Sloan, Joint Head of Complaints

Also present: Members of the Executive:

Katrina Bell
Rosemary Douce
Alice Gould
Thomas Moseley
Sean Sutherland

Observers: Jonathan Grun, Editors' Code of Practice Committee

1. Apologies for Absence

Apologies were received from Miranda Winram.

2. Declarations of Interest

No declarations of interest were received

3. Minutes of the Previous Meeting

The Committee approved the minutes of the meeting held on 10 March.

4. Matters arising

There were no matters arising.

5. Update by the Chairman – oral

The Chairman updated the Committee on his meeting with John Whittingdale MP, Minister of State for Media and Data at the Department for Digital, Culture, Media and Sport (DCMS).

He also updated the Committee on recruitment for various open positions. He confirmed that Matt Tee has left as Chief Executive and has been replaced by Charlotte Dewar as Acting Chief Executive.

The Chairman informed the Committee that a remote Board meeting had already been held.

The Chairman said that working from home has been a remarkable success due to the significant effort of the staff, and Charlotte Dewar has been outstanding in her new role in challenging circumstances. The Complaints Committee thanked all IPSO staff for their hard work in making working from home a success.

The Chairman noted that the newspaper and magazine industry is facing difficult circumstances, and consideration was being given to how IPSO should respond to this unprecedented situation. A meeting had been scheduled with the Regulatory Funding Company to discuss this with them.

The Chairman confirmed that a new alternate member of the Committee, Will Gore, had been appointed. He would only be involved in deciding complaints when a conflict of interest prevented two other members from participating.

He finished by congratulating Nazir Afzal on his newly published book.

6. Complaint 08479-19 Forbes v Express.co.uk

The Committee discussed the complaint and ruled that the complaint should not be upheld. **The decision can be found in Appendix A.**

7. Complaint 00665-20 Enticknap v The Gazette

The Committee discussed the complaint and ruled that the complaint should be upheld under Clause 1 (Accuracy). **The decision can be found in Appendix B.**

8. Complaints not adjudicated at a Complaints Committee meeting

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

9. Any other business

There was no other business.

10. Date of next meeting

The date of the next meeting was confirmed as Tuesday 9th June 2020.

The meeting ended at 11:41 am

Appendix A

Decision of the Complaints Committee – 08479-19 Forbes v Express.co.uk

Summary of Complaint

1. David Forbes complained to the Independent Press Standards Organisation that express.co.uk breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "Nicola Sturgeon humiliated as Union Jack waving unionists protest independence rally", published on 3 November 2019.

2. The article reported that a "rally...calling for a second independence referendum was met with a counter-protest from Scottish unionists" and that this counter-protest had left "Nicola Sturgeon humiliated". It also contained 5 pictures showing the counter-protest.

3. The complainant said it was inaccurate to state that Nicola Sturgeon was "humiliated" in circumstances where the counter-protest was much smaller than the main independence march. He said that even by a conservative estimate, there were 16,000 independence marchers to around 100 counter-protestors, making the latter a fraction of the size of the main march. He also said that the photos used in the article were selected in such a way as to further distort the relative scale of the two protests. Finally, he complained that the article used photos provided by a biased source, a named unionist group, and that the article failed to mention that this group made far right gestures at the protest.

4. The publication did not accept that the article breached the Code. It stated that the headline was supported by the text because the fact that there was a counter-protest was a sufficient basis to state that Nicola Sturgeon, a leading proponent of independence, had been "humiliated" at the rally. It further stated that the size of the counter-protest was immaterial to whether or not she had been "humiliated" at the rally; and that it was entitled to characterise the counter-protest as a humiliation, especially as, under the Code, it was free to campaign and be partisan. Moreover, the publication stated that the photos had been taken at the event and had not been digitally altered in any way; and that the group that supplied them confirmed the same. It was unable to provide figures on how many people had attended either the main protest or counter-protest and did not dispute the complainant's assertion that the counter-protest was a fraction of the size of the main protest. However, it said that the photographs of the counter-protest appeared to show a greater number than the estimate of 100 people made by the complainant. Finally, the publication stated that the article was not misleading as it made no claim as to the size of either protest; and, further, the article made clear the level of support enjoyed by the SNP in Scotland by mentioning they were forecast to "make gains" in the upcoming General Election.

5. The publication removed the article 2 days after publication and offered to republish an amended version which made clear the total number of protesters if this would resolve the complaint. The complainant did not accept this.

Relevant Code Provisions

6. 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

7. Under the terms of the Editors' Code of Practice, newspapers have the right to editorialise and campaign. The headline claim that Nicola Sturgeon had been "humiliated" at the rally represented the publication's characterisation of the effect of the counter-protest. The article did not suggest that the claim that she had been "humiliated" related specifically to the relative sizes of the protests. In these circumstances, the publication had not failed to take care over the accuracy of the headline. Nor did it contain a significant inaccuracy or misleading claim relating to the size of the protests. The headline did not breach Clause 1.

8. It was not in dispute that the photographs which illustrated the article had been taken at the event. The selection and sourcing of material, including photographs, is a matter of editorial discretion, as long as publication of the material does not otherwise breach the Code. Publication of the photographs did not render the article inaccurate or misleading, where the images simply showed the counter-protest. Furthermore, the publication was not obliged to report on the behaviour of the counter-protestors; this omission did not render the article misleading or inaccurate. There was no failure to take care over the accuracy of the article in breach of Clause 1.

Conclusions

9. This complaint was not upheld.

Remedial Action Required

10. N/A

Date complaint received: 3/11/2019

Date decision issued: 5/5/2020

Appendix B

Findings of the Complaints Committee 00665-20 Enticknap v The Gazette (North East, Middlesbrough & Teeside)

Summary of Complaint

1. Gary Enticknap complained to the Independent Press Standards Organisation that The Gazette (North East, Middlesbrough & Teeside) breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "Glum-looking pimp used threats to keep his sex enterprise secret", published on 12 July 2019.
2. The article reported on the complainant's sentencing hearing. The article stated that the complainant had "used blackmail to avoid justice and stop his prostitutes leaving"; that he had "on at least one occasion blackmailed the victim to prevent her contacting police"; detailed his sentencing for controlling prostitution for gain. The article also included a quote from a spokesperson for North Yorkshire Police, stating that "he used the threat of blackmail to avoid being brought to justice."
3. The complainant said that the article was inaccurate in breach of Clause 1 because, whilst the claim he had blackmailed one of the escorts had been referenced in court, the charge had been dropped and he had not been found guilty of it. He also said that whilst he had pleaded guilty to controlling prostitution for gain, he maintained that he was innocent and said that he was intending to pursue a retrial.
4. The publication accepted that it had published inaccurate information, but it did not accept that it had breached the Code. It said that the article was based on a press release issued by the North Yorkshire Police. The publication provided the press release, which stated that the complainant had pleaded "guilty to two charges of controlling prostitution for gain" and that he had "on at least one occasion blackmailed the victim to prevent her contacting police". The press release also contained a quote from a spokesperson for North Yorkshire Police which said: "he used the threat of blackmail to avoid being brought to justice". The publication was contacted by the complainant directly, and after confirming the position with the North Yorkshire Police, it amended the article and added the following correction as a footnote:

CLARIFICATION: An earlier version of this story made reference to an allegation of blackmail in line with information supplied by North Yorkshire Police. The force has since clarified that charge was dropped. The force has also amended its statement on the victims. We are happy to clarify this information.

Relevant Clause 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

5. The publication had relied solely upon a police press release for its information about the court proceedings. However, the press release was contradictory: it explained that an allegation had been made that the complainant had blackmailed one of his victims and later stated, without qualification, that he had blackmailed the victim on at least one occasion. Further, the charges in respect of which the complainant had pleaded guilty were made clear in the press release, and did not appear to include a charge of blackmail. The status of the blackmail allegation was, therefore, not clear from the press release. However, the article had reported, as fact, that the complainant had blackmailed his victim, without taking any steps to confirm whether the offence to which the complainant had pleaded guilty had included a charge of blackmail. Given the seriousness of the claim, this represented a failure to take care not to report inaccurate information about the offence committed by the complainant in breach of Clause 1(i). Where the article was a report of the complainant's court case and conviction, this was a significant inaccuracy that required a correction under Clause 1(ii).
6. Once the publication had been contacted directly by the complainant prior to IPSO's involvement, and the position had been confirmed by the police, it changed the article and added a clarifying footnote which identified the inaccuracy and put the correct position on record, which was found to be both prompt and prominent. There was no breach of Clause 1(ii).
7. The Committee noted that the complainant said he was innocent of controlling prostitution for gain, but he accepted that he had pleaded guilty to this charge. Where the article accurately reported that the complainant had pleaded guilty to charges of controlling prostitution for gain, the Committee did not find the article misleading in the way the complainant suggested. There was no breach of Clause 1 on this point.

Conclusions

8. The complaint was upheld.

Remedial action required

9. The publication had published a correction sufficiently promptly and with due prominence as to meet the requirements of Clause 1(ii). There was no breach of Clause 1(ii), and no further remedial action required.

Date complaint received: 05/02/2020

Date complaint concluded by IPSO: 14/05/2020

Appendix C

Paper No.	File Number	Name v Publication
1859	05294-19	Stainer v Folkestone Herald
1787	05316-19	Storey v The Herald (Didcot)
1787	05318-19	Storey v Oxford Mail
1869	09541-19	Brown v The Times
1849	07929-19	Dunn v Liverpool Echo
1852	08527-19	O'Nion v The Times
1867	08998-19	Kafetzis v birminghammail.co.uk
1871	09141-19	Bell v The Press (York)
1871	09542-19	Bell v The Press (York)
1868	05423-19	Murdock v The Irish News
1875	07127-20	Wilkinson v thesun.co.uk
1870	08376-19	Malone v The Scotsman
1890	09587-19	Liberty v The Sun
1841	05998-19	McGurk v am-online.com
1842	05999-19	McGurk v banburyguardian.co.uk
1843	06159-19	McGurk v oxfordmail.co.uk
1855		Request for review
1858		Request for review
1862		Request for review
1866		Request for review
1873		Request for review
1877		Request for review
1887		Request for review
1895		Request for review

