
MINUTES of the COMPLAINTS COMMITTEE MEETING
Tuesday 25th January at 10.30am
Gate House, 1 Farringdon Street, London EC4M 7LG

Present

Lord Edward Faulks
Nazir Afzal (remotely)
Andrew Brennan (remotely)
Tristan Davies (remotely) items 1 to 6
David Hutton (remotely)
Alistair Machray (remotely)
Helyn Mensah (remotely)
Asmita Naik (remotely)
Mark Payton
Andrew Pettie (remotely)
Miranda Winram (remotely)

In attendance: Charlotte Dewar, Chief Executive
Robert Morrison, Head of Complaints

Also present: Members of the Executive:

Elizabeth Cobbe (remotely)
Sarah Colbey
Rosemary Douce (remotely)
Alice Gould (remotely)
Sebastian Harwood
Emily Houlston-Jones (remotely)
Natalie Johnson (remotely)
Vikki Julian (remotely)
Chloe Mckiver (remotely)
Molly Richards (remotely)
Martha Rowe (remotely)

Observers: Jonathan Grun, Editors' Code of Practice Committee (remotely)

1. Apologies for Absence and Welcomes

Apologies were received from Allan Rennie. Welcomed Sarah Colbey new complaints officer to IPSO.

2. Declarations of Interest

Tristan Davies declared an interest for item 7 and left the meeting for this item.

3. Minutes of the Previous Meeting

The Committee approved the minutes of the meeting held on 30 November 2021. The Chairman thanked Andrew for chairing in his absence in for the meeting.

4. Matters arising

There were no matters arising.

5. Update by the Chairman – oral

The Chairman gave the Committee an update on a meeting held in December with various national publishers that he, Charlotte and Rob attended.

6. Complaints update by the Head of Complaints – Oral

The Head of Complaints welcomed new team member Sarah Colbey, outlining her training and induction schedule. He also updated members on recruitment for the Senior Complaints Officer role which was progressing well.

The Head of Complaints reminded members about the content of Regulation 40 which provides a mechanism for resolving complaints without a formal investigation if IPSO considers that the remedial action already taken or offered by the publication is satisfactory to resolve the complaint. Such procedures were commonly used by other regulators. He said he was currently working on putting together internal guidance.

7. Complaint 09309-21 A woman v Daily Mail

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

8. Complaints not adjudicated at a Complaints Committee meeting

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

9. Any other business

Andrew Pettie informed the Committee that a pre meeting of the Committee would take place ahead of 1st March meeting and invited agenda items.

10. Date of next meeting

The date of the next meeting was confirmed as 1st March 2022.

Appendix A

Decision of the Complaints Committee – 09309-21 A woman v Daily Mail

Summary of Complaint

1. A woman complained to the Independent Press Standards Organisation, through a representative, that the Daily Mail breached Clause 1 (Accuracy) and Clause 12 (Discrimination) of the Editors' Code of Practice in an article headlined "I was sexually assaulted in a women's prison... by a fellow inmate with male genitalia", published on 24 July 2021.

2. The article was an interview with the complainant in which she recounted her experience of being sexually assaulted by another inmate whilst detained in a women's prison. The headline was followed by the sub-heading: "Now read Amy's shocking story and decide: Can it be right to send trans sex offenders to female jails?". A footnote at the end of the article stated: "Pseudonyms have been used".

3. The article quoted the complainant as discussing the circumstances of the alleged assault, which she said had occurred in the toilets of the gym and where the attacker, who had received a Gender Recognition Certificate, worked as a cleaner: "Just before she assaulted me, she was seen with the shower curtain open, her genitals in full view of the other women [...] She leered at me before lunging forward and grabbing my breasts hard. She squeezed them and I cried out in pain. I was terrified she would rape me". The complainant was quoted as saying that the incident "brought back feelings of trauma about all the previous times when I've been attacked by men", adding that other prisoners were also scared of the individual "because she would rub up against them in the dinner queue with an erect penis". The complainant was also quoted recounting how she, and other women, had heard that the attacker had been "sent to the segregation unit as punishment for not taking the medication that prevented her penis from getting erect, 'which begs the question: "Why was she still allowed around us?"'."

4. The article also appeared online, headlined: "'I was sexually assaulted in a women's prison...by a fellow inmate with male genitalia': Read Amy's story and decide – can it be right to put trans sex offenders in female jails?" and was substantially the same as the print article.

5. The complainant said that the article repeatedly misquoted her: throughout the interview she had used male pronouns to describe her attacker, yet the publication had altered her comments to describe her fellow inmate using female pronouns, whilst still presenting the comments as direct quotations, giving the false impression she had used female pronouns to describe her attacker. The complainant did not consider that a woman could have a penis, and the decision by the publication to alter the pronouns she used gave a misleading impression of her views on both the assault and the gender of her attacker: readers might

incorrectly understand the complainant to have been assaulted by someone she perceived to be female. While the publication might prefer to use female pronouns to describe transgender women, she was under no obligation to do so. The complainant was a survivor of male sexual assault, describing in the article how the attack she experienced in prison brought back traumatic feelings about “all the other times when I have been attacked by men”, and she should be free to talk about her experiences without being misrepresented.

6. Furthermore, she said that by altering her comments the publication had wrongfully attributed to her a “gender identity ideology” – a belief, which, she did not hold – and in doing so disregarded her own gender critical beliefs. She said that this constituted a breach of Clause 12 (Discrimination), adding that following a recent court ruling and with regard to the Equality Act 2010, these particular beliefs should be considered a “religion”, and as such a protected characteristic under the terms of this Clause.

7. The newspaper accepted that it had altered the male pronouns used by the complainant during the interview to describe her attacker, but did not accept that this represented a breach of the Editors’ Code. It said that this was necessary in order to avoid inaccurate and discriminatory reference to the transgender woman, who was in receipt of a Gender Recognition Certificate, and to comply with the Editors’ Code. Further, it said that the reporter had contacted the complainant prior to publication to seek her consent for the altered quotations, and the complainant had agreed to the change.

8. In any case, the newspaper did not consider that these changes rendered the article inaccurate or misleading. The article made clear the gender identity of the attacker, including that the attacker had previously lived as a man; had been placed in a women’s prison after receiving a Gender Recognition Certificate; and retained male genitalia. Readers would not be misled as to the complainant’s experiences or her views in circumstances where the sub-heading and text of the article made clear that she did not believe that male-bodied sex offenders should be allowed in women’s prisons.

9. The newspaper noted that quotes were not generally reported absolutely verbatim; amendments were a necessary and practical part of the editing process for publications, notably for style and brevity as well as other legal and editorial considerations. It added that flagging such changes to readers would be unnecessary and potentially confuse readers.

10. The newspaper denied a breach of Clause 12. It did not accept that changing the pronouns originally used by the complainant amounted to a pejorative reference to her gender critical beliefs. Nor did it accept that such beliefs could reasonably be considered a “religion” under the Editors’ Code.

11. Notwithstanding this, the newspaper offered, upon receipt of the complaint, in a gesture of goodwill and in an attempt to resolve the complaint, to amend the online article to describe the individual as “the attacker”.

12. Whilst the complainant accepted that she had been informed of and consented to the changes prior to publication, she said that this consent had not been freely given. She was a vulnerable interviewee (being a victim of sexual assault and an ex-offender) and had been put in a position where she felt she had no choice other than to agree to the amendments. Without this consent, she feared, that the article would not be published, and her story not told.

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 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.
- ii) Details of an individual's race, colour, religion, gender identity, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story.

Findings of the Committee

13. The Committee recognised the sensitivity of this complaint. The editing process might, on occasion, mean that verbatim comments by individuals are altered for publication, but the Code requires that any such changes do not misrepresent the comments of the individual. In some instances, this may involve contacting the interview subject to clarify their intended meaning or follow up on specific points.

14. The article quoted the complainant's comments at length, describing her experiences and how they had influenced her views on the prison service's policies relating to transgender inmates. In her comments, the complainant had originally described her alleged attacker using male pronouns, which she

explained in her complaint to IPSO reflected her perception of the individual and by extension her views on matters related to gender and sex. In the view of the Committee, given the nature of the allegations and the significance of the broader public debates about sex and gender, on which the complainant had commented in the article, the change of pronoun was a significant one in this context. However, it was accepted that the publication had communicated to the complainant in advance of publication about the proposed change of pronoun, and that she had not objected or suggested that this change would significantly misrepresent her views. Irrespective of the complainant's subsequent objection to the amendments, she had accepted the proposed changes, and in the view of the Committee, the publication was entitled to consider that she had agreed that the change of pronouns did not make the quotations significantly inaccurate or misrepresent her views at the time of publication.

15. The Committee's considered the argument that the complainant's agreement to the change was invalid because of her vulnerability. The Committee acknowledged the complainant's position, but it did not accept that this vulnerability meant that she was unable to agree to this change; it had not been suggested that she was not legally competent to consent to giving the interview, from which the issue about pronouns stemmed. She was entitled to tell her story and had done so, and the exchange with the publication about how it would be handled followed on from this.

16. The publication had contacted the complainant regarding the use of pronouns before publication, and the pronoun used apparently reflected the legal sex of the individual concerned. The Committee found that the publication had taken care over the accuracy of the article, and there was no significant inaccuracy requiring correction under the terms of Clause 1(ii). Nonetheless, in light of the complainant's position as outlined in her complaint, the Committee welcomed the publication's offer to amend the online article.

17. The terms of Clause 12 state that publications must avoid prejudicial or pejorative reference to an individual's religion. There is no reference to "beliefs" in the clause. The complainant's gender critical views did not constitute a "religion", and the terms of Clause 12 were not engaged.

Conclusion(s)

18. The complaint was not upheld.

Remedial Action Required

19. N/A

Date complaint received: 18/08/2021

Date complaint concluded by IPSO: 11/02/2022

Appendix B

Paper No.	File Number	Name v Publication
2278	05940-21	Cygnnet Health Care Limited and Dr Tony Romero v The Times
2295	06518-21	Extinction Rebellion v The Daily Telegraph
2299	04995-21	Gaukroger v Isle of Wight County Press
2309	02814-21	Kent v Staffordshire-live.co.uk
2314	06134-21	Vass v Mail Online
2319	06393-21	Minto v Sunday People
2302	02921-21	Thompson v liverpoolecho.co.uk
2335	07349-21	Khan v The Sunday Telegraph
2293	06401-21	League Against Cruel Sports v The Sunday Telegraph
2304	07566-21	Ranger CBE v Telegraph.co.uk
2310	04367-21/04370-21	Brundrett/Bailey v derbytelegraph.co.uk/Daily Star
2311	04369-21	Brundrett/Bailey v Mail Online
2313	01431-21	Todd v oxfordmail.co.uk
2315	07356-21	Nelson v Sunday Life
2323	07567-21	Ranger CBE v Daily Mail
2290	01933-21	Muslim Council of Britain v thejc.com
2325	04369-21	Alakorik v East Anglian Daily Times
2327	08032-21	Doherty v Ardrossan & Saltcoats Herald
2331	07939-21	Dix v The Times
2332	07428-21	Daunt v The Daily Telegraph
2336	07583-21	Mitchell v Stornoway Gazette
2342	09834-21	A man v thesun.co.uk
2346	06399-21	Brace v thejc.com
2354	07468-21	Couzens v Mail Online
2363	09833-21	A man v Mail Online
2333	07265-21	Smith v Hull Daily Mail
2350	10211-21	The Tax Justice Network v The Times
2352	09293-21	Van Dijk v The National
2358	10473-21	Collins v South Wales Argus
2349	10073-21	Various v Mail Online
2351	09835-21	Goemans v Ely Standard
2347	06235-21	Smith v Sunday Life