

MINUTES

Complaints Committee, Independent Press Standards Organisation

Halton House, 20-23 Holborn, London EC1N 2JD

17 December 2014 at 10.30 am

Present: Sir Alan Moses (Chairman)
Richard Best (Deputy Chairman)
Lara Fielden
Janette Harkess
Gill Hudson
David Jessel
Elisabeth Ribbans
Neil Watts
Peter Wright
Nina Wrightson

Attending: Matt Tee, Chief Executive
Charlotte Dewar, Director of Complaints & Pre-publication Services

The following members of the Executive attended as observers: Elizabeth Cobbe, Sam Falk, Ben Gallop, James Garmston, Robyn Kelly, Tonia Milton, Bianca Strohmann, Hugo Wallis.

1. Apologies

Apologies were received from Matthew Lohn and Jill May.

2. Update by the Chairman

Alan Moses updated the Complaints Committee on negotiations over IPSO's 2015 budget and over potential changes to IPSO's Rules and Regulations. He noted that he and Matt Tee had accepted an invitation to give evidence to the House of Lords Communications Committee on 20 January 2015.

3. Update by the Chief Executive

Matt Tee updated the Complaints Committee on a range of issues, including plans to move offices in the new year, progress on implementing a new complaints database, and progress on creating a new brand for IPSO.

4. Update by the Director of Complaints & Pre-publication Services

Charlotte Dewar noted that this was the last meeting for Elizabeth Cobbe, Deputy Director of Complaints & Pre-publication Services and recorded her thanks to Elizabeth for her exceptional work. She also provided an update on the progress of several high-profile complaints.

5. Minutes – November 2014 meeting

The Committee approved draft minutes for its meeting of 12 November 2014, subject to one amendment to be confirmed in correspondence.

6. Matters arising:

a. Complaint 144326 Portes v Daily Mail

The Committee further discussed this complaint, which had initially been considered at its meeting on 12 November 2014, and confirmed its decision. The complaint had originally been made to the Press Complaints Commission, but was ongoing at the time of its close. The Committee's ruling appears in **Appendix A**.

7. Complaint 0115-14 Hutchins v Wiltshire Times

The Committee discussed this complaint and ruled that it was partially upheld. A copy of its ruling appears in **Appendix B**.

8. Complaint 00921-14 Littler v Sunday Express

The Committee discussed this complaint and ruled that it was not upheld. A copy of its ruling appears in **Appendix C**.

9. Complaint 01431-14 Graham v Chester Leader

The Committee discussed this complaint and ruled that it was upheld. A copy of its ruling appears in **Appendix D**.

10. Discussions:

a. Update on Inquiry by the Complaints Committee

After receiving a number of complaints about an article published by The Sun on 5 September 2014, the Committee decided at its October meeting to consider further the issues raised by complainants in relation to Clause 12 (Discrimination) of the Editors' Code. The Committee now noted that the events recounted in the article had subsequently become the subject of legal proceedings, and that any ruling made by the Committee would need to make reference to material about which it would not be appropriate for the Committee to comment, publicly, in such circumstances. The Committee decided not to further pursue further consideration of these issues, but noted that at the conclusion of the relevant legal proceedings, it may consider whether it is appropriate to reopen its inquiries. The Committee also concluded that it would not be appropriate to take forward complaints it had received about the matter under Clause 1 (Accuracy), having given consideration to the position of the most directly affected party, and in the full circumstances.

b. Complaints Policy

The Committee discussed and made recommendations to the Board on policies for handling unacceptable behavior by complainants and vexatious complaints; considering requests to re-open complaints that have not been pursued; considering further submissions after a decision by the Committee; and how to present information about complaints that have been resolved following mediation by the Executive.

11. Complaints not adjudicated at a Complaints Committee meeting:

The Committee confirmed its formal approval of IPSO Papers listed in **Appendix E**, all of which had been previously circulated to the Complaints Committee.

Next meeting: 21 January 2015 at 3.30pm.

APPENDIX A

Decision of the Complaints Committee Complaint 144326 Portes v Daily Mail

Jonathan Portes, Director of the National Institute of Economic and Social Research, complained to the Press Complaints Commission that an article headlined “Migrants take four jobs for every one that goes to a Briton: Unemployment tumbles by 132,000 in three months”, published by the Daily Mail on 14 August 2014, included inaccuracies in breach of Clause 1 (Accuracy) of the Editors’ Code of Practice. The complaint was on-going as of 8 September 2014, at the time of the closure of the PCC. It was therefore considered by the Complaints Committee of the Independent Press Standards Organisation in accordance with the procedures of the PCC.

The newspaper had failed to take care not to publish inaccurate or misleading information in breach of Clause 1 (i), but had offered sufficient action to remedy the initial breach.

The article reported on statistics issued by the Office for National Statistics (ONS) on the UK labour market. The article made several claims about the number of jobs that were awarded to migrants. It claimed that “migrants take four jobs for every one that goes to a Briton”; “over nine months seven out of every ten newly-available jobs thrown up by the recovering economy have been taken by workers who were born abroad”; and “between April and June, foreign-born workers took more than four new jobs for every one taken by a British-born worker”.

The complainant said these claims were inaccurate: the ONS figures from which they were drawn related to net changes in employment, not “jobs” or “new jobs”. The Chair of the UK Statistics Authority (UKSA) had previously stated publicly that it was inaccurate to describe net change in employment as “new jobs”; it represented the difference in the flows of people into and out of employment. Furthermore, the number of people in employment and the number of jobs in the economy were different things: an individual may have more than one job, or share a job. The complainant confirmed that it was not possible to estimate the proportion of new jobs filled by UK nationals based on the ONS figures, although he noted that an analysis of statistics by the London School of Economics’ Centre for Economic Performance (CEP) found that immigrants had never accounted for the majority of new jobs generated in the UK.

The complainant was particularly concerned by the inaccuracy, as the newspaper had previously received a complaint, via the PCC, about the same issue, which had been resolved with the amendment of that online article’s headline.

The newspaper said the phrase “new jobs” had been widely used as shorthand for net changes of employment, including by the Prime Minister and other national newspapers. It accepted that this was technically inaccurate but argued that, as the correlation between net changes in employment and the creation of new jobs was so close, it was not significant. It denied that it had deliberately misled readers on this point; it had been attempting to simplify a complex issue. While a complaint had been made to the PCC in 2011, it had not accepted a breach of the Editors’ Code at that time, and it had not received a complaint on the issue since then. The newspaper noted that the Chair of the UKSA said it was not possible to estimate the number of new jobs; it did not see how the complainant could claim that immigrants had

never accounted for the majority of jobs. Nevertheless, it offered to amend the online article and to publish the following correction:

An article on 14 August made references to the proportion of 'new jobs' taken by foreign workers. We would like to make clear in relation to this and previous articles that the Office for National Statistics data on which this was based tracks net changes in employment rather than new jobs and that the number of people in employment and the number of jobs in the economy are not the same. The statistics did not therefore support the claims made about new jobs. We are also happy to clarify that, between June 2013 and June 2014, the numbers of UK and non-UK-born workers increased by 502,000 and 327,000 respectively.

The complainant considered that the wording was inadequate. It did not account for the fact that the newspaper had made this error in a number of articles previously and omitted reference to the CEP analysis.

Adjudication

The PCC had previously considered this issue in August 2014, following a similar complaint against another publication. Its ruling (published after the article under complaint) had found that it was significantly inaccurate to describe changes in levels of employment as “new jobs”. The Complaints Committee maintained this position and noted its particular concern that the inaccuracy had been published despite a previous complaint against the publication, in 2011, on the same issue. This amounted to a failure to take care not to publish inaccurate information in breach of Clause 1 (i) of the Editors’ Code of Practice.

The 2011 complaint was relevant to the Committee’s ruling under Clause 1 (i), and it welcomed the newspaper’s offer to amend other instances in which the inaccuracy had been published in the intervening period (during which time it had been published regularly elsewhere, as well). Nonetheless, the Committee considered the sufficiency of the remedy proposed specifically with reference to the article under complaint.

Clause 1 (ii) requires that “a significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence, and – where appropriate – an apology published”. The Committee was of the view that the correction ought to have identified the error more clearly. It should have pointed out that it was incorrect to assert that the “majority” of “new jobs” went to foreign workers on the basis of the statistics on which the article relied. However, it did not have powers to determine the nature, extent and prominence of the correction, such as exist under IPSO procedures. Its role was to determine the adequacy of the remedy offered by the newspaper.

Having considered the matter closely, it concluded on balance that, following extensive correspondence, the wording now offered by the newspaper adequately identified the inaccuracy and explained the correct position. Further, it noted that the newspaper had accepted from its first response to the complaint that a correction was necessary. In all the circumstances, the Committee decided that the newspaper had met the requirements of Clause 1 (ii); the correction offered should now be published without delay. The Committee took the opportunity, however, to make clear its concern that this inaccuracy should not be perpetuated further.

APPENDIX B

Decision of the Complaints Committee 0115-14 Hutchins v Wiltshire Times

Summary of Complaint

1. Benjamin Hutchins complained to the Independent Press Standards Organisation that the Wiltshire Times had breached Clause 1 (Accuracy) of the Editors' Code of Practice in articles headlined "Melksham teacher banned after sending sexual messages to pupils" (online) and "Sex pest's life ban" (in print), published on 5 September 2014.
2. The articles reported that the complainant, a former teacher, had received a lifetime ban from teaching after having been cautioned by police for sending sexual messages to a pupil via social media, and found guilty of unacceptable professional conduct for falsifying coursework.
3. The complainant said that the online headline had inaccurately suggested he had sent inappropriate messages to several pupils. In fact, he had only sent them to one student. The article's assertion that he had "contacted others via Facebook" also contributed to this misleading impression; this contact consisted of public messages to pupils about their exam results.
4. The complainant was concerned that the article had not made clear that he had been dismissed from his post in 2013; he considered that it implied inaccurately that he had just left teaching. He also said that the article should have stated that his lifetime ban was issued as a result of both misdemeanours. He further considered the term "sex pest" to be defamatory, and an attempt to sensationalise his actions; the use of the term represented a failure to distinguish between comment and fact.
5. The complainant considered that the photograph used to illustrate the article was misleading, as it showed him with a moustache, which he had not worn for a number of years. He also believed that the newspaper had altered the photograph to enhance the colour of his lips, and complained that in the caption his surname was misspelt.
6. The newspaper agreed that the online headline was misleading. It had amended it to replace "pupil" with "pupils" and added the following footnote: *The headline for this article has been amended to read 'pupil' from pupils at the request of Benjamin Hutchins.* The newspaper had also added a link to the full report of the hearing of the complainant's case.
7. It denied that the article was otherwise inaccurate or misleading; the date of the complainant's dismissal was contained in the hearing report linked from the article, the story identified the reasons for the ban, and it was entitled to focus on the fact that

the complainant had sent inappropriate messages to a pupil. The newspaper did not consider it misleading to refer to someone who had sent sexual messages to a pupil as a “sex pest”.

8. The newspaper denied that it had manipulated the photograph. It had corrected the spelling error in the complainant’s name.

Relevant Code Provisions

9. Clause 1 (Accuracy)

(i) The press must take care not to publish inaccurate, misleading or distorted information, including pictures.

(ii) A significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence, and – where appropriate – an apology published.

(iii) The Press, whilst free to be partisan, must distinguish clearly between comment, conjecture and fact.

Findings of the Committee

10. In stating that the complainant had sent sexual messages to “pupils”, rather than one pupil, the article had misrepresented his misconduct. The details of the hearing were available to the newspaper, and indeed the text of the article accurately reported that only one pupil had been involved. The headline therefore represented a failure by the newspaper to take care not to publish inaccurate information. This aspect of the complaint under Clause 1 (i) was upheld. While headlines are considered in context, this does not excuse significant inaccuracies. The nature of the complainant’s misconduct was one of the main focuses of the article, and the headline’s misrepresentation of his actions therefore merited correction under the terms of Clause 1 (ii).
11. The newspaper had corrected the error, and published a footnote, noting that an amendment had been made to the article. The Committee welcome the prompt action taken by the newspaper. Nonetheless, this footnote attributed the change to a request by the complainant, rather than to an error on the part of the newspaper. As the correction had not made clear the initial error, it was not sufficient to meet the requirements of Clause 1 (ii).
12. The Committee noted the complainant’s objection to the description of him as a “sex pest”, but did not consider that the newspaper’s characterisation of him in this way was significantly misleading, in the context of the misconduct he had admitted; this did not constitute a failure to distinguish between comment, conjecture and fact in breach of Clause 1 (iii).
13. The remaining points were not upheld. The reference to the complainant’s messages to other pupils was accurate, and the article was not misleading regarding the

chronology of the incidents; it had made clear that the complainant had been suspended, and “later dismissed”. The article made clear that the ban related to other incidents beyond the messages, and the online article had included a link to further details of the hearing.

14. The complainant had speculated that the photograph of him had been manipulated to add colour to his lips. However, he had provided no grounds for this. He had not disputed that the photograph depicted him, and it was not misleading for the newspaper to use an image in which he wore a moustache. The newspaper had made an error in reporting the complainant’s name. However, this was corrected swiftly and did not raise a breach of the Code.

Conclusions

15. The complaint was upheld in part, in relation to the online article.

Remedial action required

16. Having partially upheld the complaint under Clause 1, the Committee considered what remedial action should be required.
17. The Committee considered that, given the nature of the breach of the Code and of the publication, the appropriate remedy was the publication of a correction, the nature, extent and prominence of which would be determined by IPSO.
18. In the Committee’s view, the wording appended to the article by the newspaper was insufficient remedy to the breach of the Code in this instance; it did not include a clear acknowledgment of the inaccuracy.
19. In order to remedy the breach of Clause 1, the newspaper was required to publish a footnote to the online article, the wording of which should be agreed with IPSO in advance, making clear that the original headline’s reference to “pupils” had been inaccurate, and that the messages had been sent to one pupil. In addition, the correction should acknowledge that it had been published following a ruling by the Independent Press Standards Organisation.

APPENDIX C

Decision of the Complaints Committee 00921-14 Littler v Sunday Express

Summary of complaint

1. Bob Littler complained to the Independent Press Standards Organisation that the Sunday Express had breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "Alice killer found dead", published on 5 October 2014.
2. The article reported that police had found the body of Arnis Zalkalns, who was suspected of killing schoolgirl Alice Gross.
3. The complainant said that the headline was inaccurate, as Mr Zalkalns had not been tried or convicted of Miss Gross's murder, and the only evidence available was circumstantial.
4. The newspaper did not accept that the headline was misleading. It noted the sub-headline, "Latvian suspect discovered in wood less than two miles from murder scene". Further, a headline inside the edition had referred to Mr Zalkalns as a "suspect", and he was described on the front page as "prime suspect". The text contained no reference to him as the killer of Miss Gross. The article as a whole had made clear that Mr Zalkalns had not been convicted of the murder. Further, there had been extensive coverage of the case, and readers were aware of the fact that, while Mr Zalkalns had not been convicted of Miss Gross's murder, he was a convicted killer. The headline was not therefore inaccurate or misleading.

Relevant Code provisions

5. Clause 1 (Accuracy)
 - (i) The Press must take care not to publish inaccurate, misleading or distorted information, including pictures.
 - (ii) A significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence, and – where appropriate – an apology published.

Findings of the Committee

6. The newspaper's defence of the headline, that it was accurate because Mr Zalkans was a convicted killer, was not convincing.
7. However, the Committee noted that it generally considers headlines in context. In this case, the sub-headline had referred to Mr Zalkalns as a "suspect". Further, the article had made clear throughout that the investigation into Miss Gross's death had not yet been concluded. There was no breach of Clause 1.

Conclusion

8. The complaint was not upheld.

APPENDIX D

Decision of the Complaints Committee 01431-14 A woman v Chester Leader

Summary of complaint

1. A woman complained to the Independent Press Standards Organisation that an article published in the Chester Leader in October 2014 intruded into her child's privacy, in breach of Clause 3 (Privacy) of the Editors' Code of Practice.
2. The article was a court report about the complainant's partner's conviction for being drunk in charge of a child. It named the complainant's partner and included his partial address, noted his relationship to the child concerned, and gave an account of the circumstances, including the state in which the child had been found by police.
3. The complainant said that the article had allowed readers to identify her child, in breach of a reporting restriction imposed by the court which was intended to shield her from publicity. Other parents had now asked her about the incident in front of her child, causing significant distress. She was worried about the potential further consequences for her child.
4. The newspaper apologised to the complainant for the distress caused by the article, and wrote her a private letter of apology; it also offered to make a donation to a children's charity of her choice. It accepted that there had been a reporting restriction in place but said that it had been unaware of this prior to publication. It stated that there had been no reference to it at the hearing or mention of it in court documents, but acknowledged that the reporter should have made a greater effort to establish whether restrictions were in place. It noted that, when contacted by the complainant directly, it had taken immediate steps to ensure that the article did not appear on its website or in its sister newspapers.

Relevant Code provisions

5. Clause 3 (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 justify intrusions into any individual's private life without consent.
6. Public interest
 - (iii) The Regulator will consider the extent to which material is already in the public domain, or will become so.

Findings of the Committee

7. IPSO considers complaints under the Editors' Code of Practice; it does not enforce reporting restrictions imposed by the courts, or make determinations as to whether the terms of such orders have been breached. In this instance, however, the existence of a reporting restriction was relevant to the Committee's consideration of the complaint under the Code.
8. The article under complaint had not named the complainant's child, but it had plainly identified the child by connection to the named man. In general, IPSO upholds the right to report matters heard in open court, both because of the general interest in open justice and because they have entered the public domain through the proceedings. In this instance, however, the existence of a reporting restriction meant that the complainant's child had a reasonable expectation that this material – which related to a distressing incident that raised significant safety concerns – would not be published to the wider public.
9. In addition, as a consequence of the decision taken by the Court, the child's identity was not likely to enter the public domain otherwise. The newspaper's publication of the material in these circumstances constituted an unjustified intrusion into the child's private life, and a breach of Clause 3 of the Code.

Remedial action required

10. Having upheld the complaint under Clause 3 (Privacy) of the Code, the Committee considered what remedial action should be required. The Committee has the power to require the publication of a correction and/or adjudication, the nature, extent and placement of which is to be determined by IPSO. It may also inform the publication that further remedial action is required to ensure that the requirements of the Code are met.
11. The Committee required that in order to remedy the breach of the Editors' Code, the newspaper should publish the Committee's ruling upholding the complaint. The article under complaint had been published on page 2 of the newspaper; the adjudication should also be published on this page.
12. The terms of the adjudication, which the newspaper should publish without addition or alteration under the headline "IPSO complaint upheld", are as follows:

Following an article published in the Chester Leader in October 2014, a woman complained to the Independent Press Standards Organisation (IPSO) that the Leader had intruded into her child's privacy, in breach of Clause 3 (Privacy) of the Editors' Code of Practice. IPSO upheld the complaint and established a breach of the Editors' Code. IPSO required the Leader to publish this decision by its Complaints Committee as a remedy to the breach.

The article was a court report about the complainant's partner's conviction for being drunk in charge of a child. It described a distressing incident, in which there were

concerns for the child's safety. Despite a reporting restriction imposed by the court designed to prevent identification of the child, the article named the complainant's partner and included part of his address, noted his relationship to the child concerned, and gave an account of the circumstances, including the state in which the child had been found by police.

The complainant said that other parents had now asked her about the incident in front of her child, causing significant distress. She was worried about the potential further consequences for her child.

When the Chester Leader received the complaint, it apologised to the complainant for the distress caused by the article, and wrote her a private letter of apology; it also offered to make a donation to a children's charity of her choice. The Leader accepted that there had been a reporting restriction in place, but said it had been unaware of this prior to publication. It stated that there had been no reference to it at the hearing or mention of it in court documents on the day, but acknowledged that the reporter should have made a greater effort to establish whether restrictions were in place. The Chester Leader made clear to IPSO that, when contacted by the complainant, it had taken immediate steps to ensure that the article did not appear on its website or in its sister newspapers.

IPSO considers complaints under the Editors' Code of Practice; it does not enforce reporting restrictions imposed by the courts, or make determinations as to whether the terms of such orders have been breached. In this instance, however, the existence of a reporting restriction was relevant to the Committee's consideration of the complaint under the Code.

IPSO's Complaints Committee noted that the article had not named the complainant's child, but it had plainly identified the child by connection to the named man. In general, IPSO upholds the right to report matters heard in open court, both because of the general interest in open justice and because they have entered the public domain through the proceedings. In this instance, however, the existence of a reporting restriction meant that the complainant's child had a reasonable expectation that this material – which related to a distressing incident that raised significant safety concerns – would not be published to the wider public.

In addition, as a consequence of the decision taken by the Court, the child's identity was not likely to enter the public domain otherwise. The Leader's publication of the material in these circumstances constituted an unjustified intrusion into the child's private life, and a breach of Clause 3 of the Code.

APPENDIX E

Paper No.	File Number	Name v Publication
45	144880	Wagner v The Sun
46	144124 144303	Wagner v The Sun on Sunday Lee v Western Daily Press
47	0048-14	Adams v Metro
48	0274-14	Miah v The Daily Telegraph
50	0123-14	Berki v Sunday People
52	143639 144448	Bentley v Eastern Daily Press Byrnes v The Independent
53	144988	Abdrabba v The Times
54	0262-14	Berry v Gloucester Citizen
55	01459-14 01525-14 01626-14	Teasdale v Mail Online Middlemiss v Manchester Evening News Jones v Mail Online
56	0015-14	Mian v Slough and Bucks Express
57	0847-14	Man v Edinburgh Evening News
58	01299-14	Luyken v The Scotsman
59	01298-14 / 01300-14	Luyken v Daily Mirror/ Daily Record
60	144915	Clucas v Henley Standard
61	143815	Ward v Mail Online
62	01449-14	Muncey v Waltham Forest Guardian
68	144965 144968 145001	Anderson v The Scottish Sun Anderson v Press and Journal Anderson v The Scotsman