
MINUTES of the COMPLAINTS COMMITTEE MEETING
Tuesday 21 May at 10.30am
Gate House

Present

Lord Edward Faulks
Bulbul Basu
Sarah Baxter
Andy Brennan
Manuela Grayson
David Hutton
Alastair Machray
Asmita Naik
Mark Payton
Allan Rennie
Ted Young

In attendance:

Charlotte Dewar, Chief Executive
Alice Gould, Head of Complaints
Emily Houlston-Jones, Head of Complaints
Michelle Kuhler, PA & minute taker, *(remotely)*

Also present: Members of the Executive:

Sarah Colbey
Ellie Richards Coldicutt *(remotely)*
Tom Glover *(remotely)*
Natalie Johnson
Heather McCrum *(remotely)*
Hira Nafees Shah *(remotely)*
Marcus Pike
Molly Richards
Sophie Thomsett

Observers:

Jonathan Grun, Editors Code of Practice
Jay Stone, Editors Code of Practice
Steven Vaughan, Editors Code of Practice, *(remotely)*

1. Apologies for Absence and Welcomes

Apologies were received from Carwyn Jones. Welcomes were given to: Sophie Thomsett, new Complaints Officer; as well as Jay Stone and Steven Vaughan from the Editors Code of Practice.

2. Declarations of Interest

Ted Young declared an interest in item 7 and left the meeting for the item.

3. Minutes of the Previous Meeting

The Committee approved the minutes of the meeting held on 23 April 2024, following amendments to David Hutton attending for item 8 not 9 and the change to the date of the next meeting from 28th to 21st May.

4. Matters arising

There were no matters arising.

5. Update by the Chair – oral

The Chairman update the Committee on recent events.

The Chief Executive gave feedback on the recent visit to Manchester. She also updates the Committee members on the Regulation changes and progress on the office move.

Questions and suggestions were taken from the Committee on the regulation changes.

6. Complaints update by the Head of Complaints – oral

Alice Gould gave the Committee an update on complaints of note which will be brought to the Committee. She also told the Committee that the next thematic review will be on public interest.

7. Complaint 22679-23 Nicholls v Mail Online

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

8. Thematic review: Clause 2 (Privacy) and social media

Emily Houlston-Jones, Head of Complaints presented a general introduction to the review.

The Committee discussed the review, giving feedback, suggestions and comments.

9. Complaints not adjudicated at a Complaints Committee meeting

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

10. Any other business

There were no other business.

11. Date of next meeting

The date of the next meeting was subsequently confirmed as Tuesday 11th June 2024.

APPENDIX A

Decision of the Complaints Committee – 22679-23 Nicholls v Mail Online

Summary of Complaint

1. Sandra Nicholls, acting on her own behalf and on behalf of Lydia Ball and Kelly-Jane Mann, complained to the Independent Press Standards Organisation that Mail Online breached Clause 9 (Reporting of Crime), Clause 1 (Accuracy), Clause 2 (Privacy), and Clause 3 (Harassment) of the Editors' Code of Practice in the preparation and publication of an article headlined "Mother-in-law of married Army Sergeant who raped colleague after barracks party is reported to police for 'harassing his victim'", published on 9 December 2023.

2. The article, which appeared online only, reported that the complainant – who was described in the article as the "mother-in-law of a soldier who faces prison for raping a colleague" – had been "reported to police for allegedly harassing his victim". It went on to report that the complainant had "apparently been messaging family and friends of the woman he raped" and that "[t]he messages have been framed as in support of his wife and her daughter, Lydia Ball". It then reported that "[m]essages [were] sent via a Facebook account in the name of Sandra Nicholls querying [her son-in-law's] guilt to close associates of" the victim. It then went on to state that:

"In one post she wrote: 'My son-in-law Michael had been accused and convicted of rape. We, the friends and family of Michael, know that this accusation is not true'. She then made disparaging remarks about [the victim]. The messages also name the victim – which is illegal in sex offence cases – and identify her partner."

3. The article also reported that the complainant had, "when approached about this episode [...] initially denied that she was behind the messages before conceding that she had written one". The article contained further details about the complainant's relationship with her son-in-law: it reported that she had "changed her avatar to a picture of" her son-in-law and that, "[a]s part of his bail conditions, [her son-in-law] must live at [the complainant's] address."

4. The article was illustrated with photographs of the complainant, Sandra Nicholls, and another woman who was described in the photographs caption as "her daughter Lydia". However, the pictured woman was the third complainant, Kelly-Jane Mann.

5. The complainant contacted the publication on the day the article was published, to make it aware that the article included a photograph which incorrectly identified the woman pictured as her daughter. The complainant also said that the article inaccurately reported she had changed her Facebook profile picture to show her son-in-law. She said the photograph actually showed her late nephew. The complainant also said that the article inaccurately reported that she had contacted the victim.

6. The article was then amended the day after publication to remove the photograph of Ms Mann, and also to remove the reference to the complainant having "changed her avatar to a picture of" her son-in-law. At the same time, three photographs showing the complainant's daughter and her husband were added to the article. One showed the couple on their wedding day, and an additional two photographs showed them smiling.

7. The article was updated a second time a day later, two days after its initial publication. The article was amended to remove all three pictures of the complainant's daughter.

8. The complainant again contacted the publication, the day after the article was amended the second time, to express her concern that the amended article contained photographs of her daughter, who she said had “nothing to do” with the article. She then followed up with a further email, sent on the same date, in which she said that her son-in-law was not bailed to her address, as reported by the article.

9. The complainant then contacted IPSO with her concerns. She said that the article breached Clause 9 of the Editors’ Code because it identified her, her daughter, and the third complainant as relatives of her son-in-law: she had been referenced and pictured throughout all versions of the article; her daughter had been referenced in all articles and pictures of her were included in the second version of the article; and Ms Mann’s photograph had appeared in the first version of the article.

10. The complainant also said that the article breached Clause 2, for the reasons noted above. The complainant said that the pictures included in the article were taken from her Facebook page, which she had made private two days before the article’s publication.

11. The complainant also said that the article breached Clause 1, as she considered it contained several instances of inaccurate information. She said that, contrary to the article’s reporting, her Facebook profile picture did not show her son-in-law; the article had misidentified the third complainant as her daughter; her son-in-law had not been bailed to her address; she had not contacted the victim directly, or any member of the victim’s family; she had not named the victim in her message; and she had not been made aware that she had been reported to the police.

12. The complainant also said that the article breached Clause 3. She said that a journalist acting on behalf of the newspaper had recorded a call with her without her permission. She also said that the reporter had sent her messages on Facebook, both before and after the call. The first, sent prior to the call, asked the complainant to call the reporter back. After the call, the reporter sent a further message, asking for the complainant’s daughter to contact her. The complainant responded saying that, if she were to receive a further message, she would call the police, and received no further contact from the reporter. The complainant then deleted the messages, so could not provide them to IPSO.

13. The publication did not accept that the article breached the Code. Turning first to the concerns raised under Clause 9, it said that the complainant was genuinely relevant to the article: the focus of the article was her actions, and allegations that she had harassed her son-in-law’s victim.

14. The publication also considered that the complainant’s daughter was genuinely relevant to the story of her husband’s conviction. It said that both she and the complainant had made statements at the son-in-law’s sentencing, and that the message sent by the complainant to the victim’s associate asked for the recipient to contact either the complainant or her daughter. It said this suggested that the daughter was “complicit” in the messages.

15. The publication did not accept that the third complainant was fully identified in the article, and therefore did not consider that the terms of Clause 9 had been breached by the inclusion of her photograph. It said that her relationship to the defendant was not disclosed in the article, nor was she named. It also said that her picture appeared in the article only briefly, and as a result of human error. Further to this, the publication alleged that the third complainant had contacted the reporter and had told her she was aware of the messages.

16. The publication said that the article did not report that the complainant contacted the victim directly, therefore it could not possibly be inaccurate on this point. It said that it firmly stood by the article’s assertion that the complainant had contacted the friends and family of the victim. It said that it had taken care over its reporting of this claim by contacting the police, who had confirmed that they were looking into allegations of

harassment against the victim, and by putting this allegation to the complainant pre-publication. It noted that, while the complainant had initially disputed having sent any messages, she had then accepted having sent one, and her position was reflected in the article. To support its position on this point, the publication provided a recording of the phone call between the complainant and the reporter, which reflected what had been reported in the article – that the complainant accepted having sent a message to an associate of the victim – and emails between the victim and the police raising concerns regarding messages from the complainant. It also noted that the victim had been told by the police that they would visit the complainant at her home to discuss the allegations against her.

17. The publication also provided a screenshot of a Facebook message, which had been sent from a Facebook account with the same name as the complainant. It said that this message had been sent to the ex-wife of the victim's partner; the message did not name the victim, though it did name her partner. The message questioned the verdict in the case and included the following:

"Hello [REDACTED], my name is Sandra. I'm sorry to bother you.

My son in law Michael has been accused and convicted of rape. [...] We, the friends and family of Michael, know that this accusation is not true. [...]

[W]e cannot let Michael go to prison when he has not committed any offence. We are therefore reaching out to others who may know this person to better understand her character.

If you would be willing to speak to me or my daughter we would be grateful.

Best wishes,

Sandra"

18. The message also referred to the impact of the conviction and a likely custodial sentence on the complainant's grandchildren.

19. The publication also said that a message had been sent to the victim's partner, though it did not provide a copy of this message.

20. Turning to the accuracy concerns regarding the photograph, the publication accepted that the photograph in the original article which purported to show the complainant's daughter actually showed the third complainant. It said that this had occurred as a result of human error and misidentification on the part of the reporter, and the article had been amended to remove this photograph as soon as the publication had been made aware of the error. It said that there was a strong family resemblance between the third complainant and her daughter, and that it was therefore hard to distinguish between them. It also said that the reporter had checked with the victim prior to publication, who had believed that the photograph showed the complainant's daughter.

21. The publication accepted the complainant's position that she had not "changed her avatar to a picture of" her son-in-law, as reported by the original article. It said that it had amended the article to remove this reference upon being made aware of this alleged inaccuracy, which had come about as a result of an error on the part of the reporter when identifying the complainant's son-in-law. It said that the photograph had been captioned 'Michael' – the name of the complainant's son-in-law – and that the victim had positively identified the image as showing the complainant's son-in-law prior to publication.

22. The publication did not accept that the article inaccurately reported that the complainant's son-in-law had been bailed to her address. It said that this had been mentioned in court, and that the complainant's address was used to locate the son-in-law. The publication did not provide any reporter's notes in support of its position on this point.

23. The publication said that it did not accept that any of the errors identified by the complainant were significant, as it considered that the thrust of the article – that there were allegations of harassment against the complainant – was not affected by these inaccuracies. However, it said it would be willing to update the article to record that it had been amended to remove an inaccurate image showing the third complainant.
24. The publication did not accept that the terms of Clause 2 had been breached. It said that, as the images had been freely available on an open social media profile, the complainants could have no expectation of privacy over them – particularly given that the photographs simply showed the complainants’ likenesses.
25. While the publication did not dispute the complainant’s depiction of the interactions between the reporter and the complainant, it did not accept that the terms of Clause 3 had been breached. It said that the reporter had exercised due diligence in contacting the complainant for her comment, and that this was sound journalistic practice that could not possibly be considered harassment.
26. The complainant did not accept that it had been heard in court that her son-in-law had been bailed to live at her address. She provided an email from her son-in-law’s barrister; in this email the barrister confirmed that the complainant’s son-in-law had not been bailed to her address. She also contacted the court, which said it could not find anything in the court transcripts or audio recording which would suggest that the court had said that the complainant’s son-in-law would be bailed to her address. The complainant also said that, while she and her daughter had made statements which were read out in court, this was two months after the article’s publication.
27. The complainant then said that there was no familial likeness between the third complainant and her daughter that could explain the misidentification. She also noted that her nephew’s death had been reported by the publication; therefore, she said it should have been aware that her profile picture showed her nephew rather than her son-in-law.
28. The complainant accepted that the police had visited her in relation to the message she had sent, but she said that this visit had not resulted in any further action being taken against her. She disputed having sent a message to the victim’s partner, and noted that the publication had not provided a copy of this message. She said, therefore, it was inaccurate to refer to multiple messages sent to the victim’s friends and family, as there had been only one message sent to an individual who was not related to the victim and was not her friend. She said that there was no need for further messages as “[t]here are other ways to reach out, for instance [...] face to face meetings” with people who weren’t friend or family members of the victim.
29. In light of the information provided by the complainant, the publication said that it would be prepared to correct the article’s reference to the complainant’s son-in-law being bailed to her address – though it considered this a passing reference, and arguably not significant in the context of the article as a whole.
30. On 8 April 2024, the publication proposed to remove the article, and to publish the following correction, which would appear in the online clarifications and corrections section:
- “On December 9 we published an article about Sandra Nicholls, the mother-in-law of Sergeant Michael Ball who had been convicted of rape. An image of [the third complainant] was erroneously used to portray her daughter, and the article mistakenly suggested that Mrs Nicholls had changed her Facebook profile picture to one of her son-in-law; it was, in fact, a photograph of her nephew. The report went on to claim that following his conviction and prior to sentencing, Sergeant Ball had been bailed to Mrs Nicholls’ address which she states, and which we accept, was not the case. We apologise for the errors.”*

31. However, the publication reiterated its position that the article did not contain any further inaccuracies in need of correction. It provided further material to support its position on this point, including a letter from the victim's legal representative to the Service Prosecuting Authority. The letter referred to concerns that the complainant had contacted the ex-wife of the victim's partner, and that the son-in-law had been bailed to the complainant's property. It also provided an email from the victim's ex-partner, in which he referenced the complainant having sent him a friend request on Facebook.

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.

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.

Clause 3 (Harassment)*

- i) Journalists must not engage in intimidation, harassment or persistent pursuit.
- ii) They must not persist in questioning, telephoning, pursuing or photographing individuals once asked to desist; nor remain on property when asked to leave and must not follow them. If requested, they must identify themselves and whom they represent.
- iii) Editors must ensure these principles are observed by those working for them and take care not to use non-compliant material from other sources.

Clause 9 (Reporting of Crime)*

- i) Relatives or friends of persons convicted or accused of crime should not generally be identified without their consent, unless they are genuinely relevant to the story.
- ii) Particular regard should be paid to the potentially vulnerable position of children under the age of 18 who witness, or are victims of, crime. This should not restrict the right to report legal proceedings.
- iii) Editors should generally avoid naming children under the age of 18 after arrest for a criminal offence but before they appear in a youth court unless they can show that the individual's name is already in the public domain, or that the individual (or, if they are under 16, a custodial parent or similarly responsible adult) has given their consent. This does not restrict the right to name juveniles who appear in a crown court, or whose anonymity is lifted.

Findings of the Committee

32. The terms of Clause 9 are intended to protect individuals from being associated with the crimes, or alleged crimes, of their friends or family members when they are not genuinely relevant to the story. The question of whether someone is genuinely relevant to the story of a crime or alleged crime will depend on the particular factors relevant to them. For this reason, the Committee considered each of the complainants' potential relevance individually.

33. Firstly, the Committee considered whether the third complaint, Ms Mann, had been identified. The publication had argued that Ms Mann had not been identified, as her photograph had appeared only briefly in the article, and she had not been named or her relationship to Mr Ball disclosed. However, the Committee did not agree: Ms Mann's photograph had appeared prominently within the article, plainly displaying her likeness and linking her to Mr Ball's crimes. Although she had been incorrectly identified as Mr Ball's wife, the article still reported a familial connection between her and Mr Ball – albeit an inaccurate one – and identified her in this context. Given that Ms Mann was identified in the article, the next question for the Committee to consider was whether she was genuinely relevant to the story.

34. Ms Mann was not referenced in the message sent by Mrs Nicholls, and while the publication had made the point that Ms Mann was aware of the messages, it did not follow that she was genuinely relevant to the article under complaint, and the Committee did not accept that awareness of alleged wrongdoing by a third party was sufficient to demonstrate genuine relevance. At any rate, her inclusion in the article was as a result of human error, rather than as a result of a decision taken by the publication that she was relevant and her inclusion was justified. In such circumstances, identifying Ms Mann as a relative of Mr Ball, a convicted rapist, was a breach of Clause 9. She was not genuinely relevant to the story of either Mr Ball's crime or of his mother-in-law's actions after his conviction.

35. The Committee next considered whether Ms Nicholls, Mr Ball's mother-in-law, was genuinely relevant to the story. The Committee noted that the article under complaint focused on the alleged actions of Ms Nicholls after her son-in-law's conviction, and her continued support of him. Given this, Ms Nicholls was plainly genuinely relevant to the story, and identifying her as the mother-in-law of a convicted rapist in this context did not breach the terms of Clause 9.

36. The Committee then considered whether Lydia Ball was genuinely relevant to the story. It noted that the article reported on a message sent by Mrs Nicholls to the ex-wife of the victim's partner which was, as the article noted, "framed as in support of [Mr Ball's] wife and her daughter, Lydia Ball". This message, which the publication had supplied to IPSO, referenced the impact of the conviction and likely sentence on the complainant's daughter and grandchildren in explaining why the complainant was making the approach. It closed by stating: "If you would be willing to speak to me or my daughter we would be grateful." Given that the message specifically referenced the impact of the conviction on Mrs Ball and her children and asked the recipient to contact her, the Committee considered that she was genuinely relevant to the story, which focused on the actions which had been undertaken by her mother in support of her. In such circumstances, there was no breach of Clause 9 on this point.

37. The Committee turned next to the concerns raised under the terms of Clause 1. Both the publication and the complainant accepted that the article inaccurately reported that the complainant had "changed her avatar to a picture of" her son-in-law. The question for the Committee, therefore, was whether the publication had taken care not to publish inaccurate information on this point, and whether it was significantly inaccurate.

38. In this case, the inaccurate claim served the purpose of supporting the article's narrative of the complainant's support of her son-in-law. While the publication had

taken some steps to verify the accuracy of this claim – it had asked the victim whether the photograph showed Michael Ball – these limited steps to take care were not proportionate to the claim being made, and the Committee considered that further steps should have been taken to verify this information; for instance, putting the claim to the complainant directly, pre-publication, to give her the opportunity to challenge it. There was, therefore, a failure to take care on this point, and a breach of Clause 1 (i). The article had misidentified the complainant's deceased nephew as a convicted rapist. In such circumstances, this claim was significantly inaccurate and the publication was required to correct it, promptly and with due prominence, to avoid a further breach of Clause 1 (ii).

39. The article had misidentified the third complainant as her daughter, and in doing so had inaccurately reported that the pictured individual – Kelly-Jane Mann – was married to a convicted rapist. Again, given the nature of the claim being made, the Committee did not consider the limited steps taken to verify this information – asking the victim to confirm the identity of the woman in the photograph – were sufficient, given that the publication did not appear to have tried to identify Mrs Ball using other photographs, which were plainly readily available – given the fact that the article was later updated to include three photographs of Mrs Ball at short notice. In addition, the Committee did not accept there was a familial likeness between the two women, as argued by the publication. There was a failure to take care not to publish inaccurate information, and a breach of Clause 1 (i). This inaccuracy was significant, given that it inaccurately identified Ms Mann as being married to a convicted rapist. It therefore required correction under the terms of Clause 1 (ii).

40. The article had inaccurately reported that Mr Ball had been bailed to his mother-in-law's address. Again, the Committee noted that limited steps appeared to have been made to verify this information – there were no contemporaneous notes to this effect, the publication had not contacted the military court to verify this information prior to publication, and this claim had not been put to the complainant. This had not been heard in court – given that a court official confirmed that this had not been said during proceedings – and the reporter relied on a reference in a barrister's email to corroborate this misunderstanding. This was not sufficient care given the importance of ensuring the accurate reporting of court proceedings, and there was a breach of Clause 1 (i). The inaccuracy was also significant, again given the importance of accurately reporting court proceedings and where this inaccuracy contributed to the article's narrative of support from the mother-in-law. Therefore, the publication was required to correct this information in line with the terms of Clause 1 (ii).

41. The complainant also said that the article was inaccurate because it referred to multiple messages sent to the victim's friends and family. She said there had been only one message sent to an individual who was not related to the victim and was not her friend: the ex-wife of the victim's partner. She said that there was no need for further messages as "[t]here are other ways to reach out, for instance [...] face to face meetings" with people who weren't friend or family members of the victim.

42. The publication had only been able to provide a single message from the complainant to the partner's ex-wife. However, the Committee noted that steps had been taken to verify this claim: It had been put to the complainant, prior to publication – and her denial of having sent more than one message was included in the article under complaint. In addition, the publication had had sight of an email from the victim's barrister referencing this contact, and a statement from the victim's partner in which he said he had received a Facebook friend request from the complainant. The Committee further noted that the message which the publication had had sight of referenced the fact that the complainant had contacted "others", and the complainant herself had referenced having "reach[ed] out" to individuals. In such circumstances, the Committee

considered that the appropriate level of care had been taken over the accuracy of this claim, particularly in light of the inclusion of the complainant's denial in the article – and this it was not significantly inaccurate, misleading, or distorted: it appeared that the complainant had been reaching out to people who knew the victim personally. There was no breach of Clause 1.

43. The message that the Committee had had sight of did not name the victim. However, the Committee noted that it named her partner, which would serve the purpose of identifying a victim of a rape. In such circumstances, the Committee did not consider that the article breached Clause 1 by reporting that the “messages also name the victim [...] and identify her partner”.

44. While the complainant had said that she had no knowledge of having been reported to the police in relation to any alleged messages, she had – during IPSO's investigation – accepted that the police had visited her in relation to at least one alleged message, though no further action was taken. In addition, the publication had been able to provide emails between the victim and the police to support its position on the matter. The article, therefore, did not breach Clause 1 by reporting that the complainant had been “reported to police for allegedly harassing his victim”.

45. As none of the three versions of the article reported that the complainant had contacted the victim directly, the complainant's concern that the article was inaccurate on this point did not represent a breach of Clause 1.

46. The Committee next considered whether the correction proposed by the publication was sufficient to avoid a further breach of the terms of Clause 1 (ii). The Committee had identified several instances of significantly inaccurate information in the article in need of correction: the complainant having changed her avatar to a picture of her son-in-law; the misidentification of Ms Mann as Mr Ball's wife; and the claim that Mr Ball had been bailed to the complainant's address. While the publication had said during the complaints process that it would be happy to publish wording on two of these inaccuracies – the misidentification of Ms Mann, and later the incorrect bail details – it had not proposed the wording or location of any corrective wording until it offered to remove and correct the article on the 8th of April, four months after the article's initial publication and when it was made aware of the complainant's concerns.

47. While the Committee was satisfied with the wording and prominence of the proposed correction – given it identified each of the significant inaccuracies, put the correct position on record, and would be published in the regular Corrections and Clarifications section – it was not satisfied with the promptness with which the publication proposed the correction, given the delay between it being made aware of the inaccuracies and the proposed wording being offered. There was, therefore a breach of Clause 1 (ii) in relation to the promptness of the proposed remedial action.

48. Aside from the question of whether each of the complainants were genuinely relevant to the story – which was considered by the Committee under the terms of Clause 9 – the Committee also considered whether the publication has unjustly intruded into the complainants' private and family life. The complainant had said that publishing photographs of herself, her daughter, and the third complaint – linking them all to her son-in-law and his offences – had intruded into their privacy and therefore breached Clause 2.

49. The terms of the Clause make specific reference to the fact that account should be taken of the complainant's own public disclosures of information and the extent to which the material complained of is in the public domain. Therefore, the Committee had regard for the fact that the photographs which appeared in the article had appeared on the complainant's own open social media pages. It also noted the content of the photographs themselves: separate of the question of whether they unjustly linked the complainants with the crimes of their relative, which was a question considered under

Clause 9, the photographs themselves did not reveal anything about the complainants beyond their likenesses. Taking into account both of these factors, the Committee did not consider that the publication of these photographs intruded into the complainants' private and family lives. There was no breach of Clause 2.

50. With regard to Clause 3, the Committee understood that the complainant had found the approaches from the journalist to be unwelcome, and was unhappy that the call had been recorded. However, the mere fact of an approach being unwanted or unwelcome does not, in and of itself, mean that it is harassing. This is also the case with regard to the recording of phone calls, which – while occasionally unwelcome – is generally not behaviour which would constitute harassment. Rather, such phone calls act as a contemporaneous record of the newsgathering process. The Committee therefore carefully considered the contact between the journalist and the complainant to assess whether it reached the bar of harassment. It noted that the journalist had messaged the complainant twice, for the purpose of obtaining her comment on an upcoming article which would cover serious allegations against her, and that, after the complainant had said she did not wish for the journalist to contact her, there was no evidence of further contact. In such circumstances, the Committee did not consider that this demonstrated a pattern of behaviour that could be said to be harassing, and it did not consider that the approach itself was intimidating or persistent. There was no breach of Clause 3.

51. In light of the delay in offering a correction, and further delays during the IPSO investigation process, the Committee wished to put on the record its significant concerns at the publication's handling of this complaint. It also expressed regret that the delays in the publication's response had led to the complaint being upheld under Clause 1(ii). Therefore, it requested that the publication undertake an internal review of its complaints handling in this case, and write to IPSO's Standards team with the outcome of this review and proposals as to how it might avoid similar delays in the future.

Conclusions

52. The complaint was upheld under Clause 9 and Clause 1.

Remedial action required

53. 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 an adjudication; the nature, extent and placement of which is determined by IPSO.

54. The publication had breached the terms of Clause 9 by identifying a relative of a convicted rapist when she was not genuinely relevant to the story of the article. This was a serious breach of the Code. In addition, the article had contained several significant inaccuracies, which had come about as a result of a lack of care taken on the part of the publication, and the publication had failed to correct these inaccuracies promptly. The Committee had also put on record its serious concerns at the delays during the complaints process, which had arguably led to the further breaches of Clause 1(ii). Taking these factors into account, the Committee considered that only the publication of an adverse adjudication would remedy the breaches.

55. The Committee considered the placement of this adjudication. Given that the article appeared online only, the adjudication should also be published online, and a link to this adjudication (including the headline) should be published on the top half of the publication's homepage for 24 hours; it should then be archived in the usual way.

56. If the newspaper intends to continue to publish the online article without amendment to remove the breaches identified by the Committee, a link to the adjudication should also be published as part of the article, beneath the headline. If amended to remove the material in breach of the Code, a link to the adjudication should be published as a footnote, with an explanation that the article had been amended following the IPSO

ruling. The publication should contact IPSO to confirm any amendments it intends to make to the online article.

57. The headline to the adjudication should make clear that IPSO has upheld the complaint, reference the title of the publication and refer to the complaint's subject matter. The headline must be agreed with IPSO in advance.

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

Sandra Nicholls, acting on her own behalf and on behalf of Lydia Ball and Kelly-Jane Mann, complained to the Independent Press Standards Organisation that Mail Online breached Clause 9 (Reporting of Crime) and Clause 1 (Accuracy) of the Editors' Code of Practice in the preparation and publication of an article headlined "Mother-in-law of married Army Sergeant who raped colleague after barracks party is reported to police for 'harassing his victim'", published on 9 December 2023.

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

The article, which appeared online only, reported that the complainant – who was described in the article as the "mother-in-law of a soldier who faces prison for raping a colleague" – had "apparently been messaging family and friends of the woman he raped" and that "[t]he messages have been framed as in support of his wife and her daughter, Lydia Ball".

The article contained further details about the complainant's relationship with her son-in-law: it reported that she had "changed her avatar to a picture of" her son-in-law and that, "[a]s part of his bail conditions, [her son-in-law] must live at [the complainant's] address."

The article was illustrated with photographs of the complainant, Sandra Nicholls, and another woman who was described in the photograph's caption as "her daughter Lydia". However, the pictured woman was Kelly-Jane Mann.

The complainant contacted the publication on the day the article was published, to make it aware that the article included a photograph which incorrectly identified the woman pictured as her daughter. The complainant also said that the article inaccurately reported she had changed her Facebook profile picture to show her son-in-law. She said the photograph actually showed her deceased nephew.

The article was then amended the day after publication to remove the picture of Ms Mann, and also to remove the reference to the complainant having "changed her avatar to a picture of" her son-in-law. The complainant then followed up with a further email, sent two days later, in which she said that her son-in-law was not bailed to her address, as reported by the article.

The complainant then contacted IPSO with her concerns. She also said that the article breached Clause 9 of the Editors' Code, as family members of convicted people should not be reported on – according to this Clause – and Ms Mann had been identified as the wife of a convicted rapist, as her photograph had appeared in the first version of the article.

On 8 April 2024, the publication proposed to remove the article, and to publish a correction, which would appear in the online clarifications and corrections section.

However, the publication did not accept that Ms Mann was fully identified in the article, and therefore did not consider that the terms of Clause 9 had been breached by the inclusion of her photograph. It said that her relationship to the defendant was not disclosed in the article, nor was she named. It also said that her picture appeared in the article only briefly, and as a result of human error. However, the Committee did not agree: Ms Mann's photograph had appeared prominently within the article, plainly displaying her likeness and linking her to Mr Ball's crimes.

In such circumstances, identifying Ms Mann as the wife of Mr Ball, a convicted rapist, was a breach of Clause 9 – she was not genuinely relevant to the story.

The Committee turned next to the concerns raised under the terms of Clause 1. Both the publication and the complainant accepted that the article inaccurately reported that the complainant had “changed her avatar to a picture of” her son-in-law. In fact, the avatar in question showed her late nephew.

In this case, the inaccurate claim served the purpose of supporting the article’s narrative of the complainant’s support of her nephew. While the publication had taken some steps to verify the accuracy of this claim the Committee considered that further steps should have been taken to verify this information – for instance, seeking the complainant’s comment. There was, therefore, a failure to take care on this point, and a breach of Clause 1 (i).

In such circumstances, this claim was significantly inaccurate and the publication was required to correct it, promptly and with due prominence, to avoid a further breach of Clause 1 (ii).

The article had misidentified Ms Mann as the wife of a convicted rapist. Again, given the nature of the claim being made, the Committee did not consider the limited steps taken to verify this information were sufficient, given that the publication did not appear to have tried to identify Mrs Ball using other photographs. There was, therefore, a failure to take care not to publish inaccurate information, and a breach of Clause 1 (i). This inaccuracy was significant, given it inaccurately identified Ms Mann as being married to a convicted rapist. It was, therefore, a significant inaccuracy which required correction under the terms of Clause 1 (ii).

The article had inaccurately reported that Mr Ball had been bailed to his mother-in-law’s address. Again, the Committee noted that limited steps appeared to have been made to verify this information. This was not sufficient care given the importance of ensuring the accurate reporting of court proceedings, and there was a breach of Clause 1 (i). The inaccuracy was also significant, again given the importance of accurately reporting court proceedings, and where this inaccuracy contributed to the article’s narrative of the complainant’s support for her son-in-law. Therefore, the publication was required to correct this information in line with the terms of Clause 1 (ii).

The Committee had identified several instances of significantly inaccurate information in the article in need of correction. While the publication had said during the complaints process that it would be happy to publish wording to correct two of these inaccuracies, it had not proposed the wording or location of any corrective wording until it had offered to remove and correct the article on the 8th of April – four months after it was made aware of the complainant’s concerns. The Committee was not satisfied with the promptness with which the publication proposed the correction, given the delay between it being made aware of the inaccuracies and the proposed wording being offered. There was, therefore a breach of Clause 1 (ii) in relation to the promptness of the proposed remedial action.

In light of the delay in offering a correction, and further delays during the IPSO investigation process, the Committee wished to put on the record its significant concerns at the publication’s handling of this complaint. It also expressed regret that the delays in the publication’s response had led to the complaint being upheld under Clause 1(ii). Therefore, it requested that the publication undertake an internal review of its complaints handling in this case, and write to IPSO’s Standards team with the outcome of this review and proposals as to how it might avoid similar delays in the future.

Date complaint received: 11/11/2023

Date complaint concluded by IPSO: 24/06/2024

APPENDIX B

Paper no.	File number	Name v publication
3094	21062-23	Benton v The Times
3138	22422-23	openDemocracy v express.co.uk
3141	21943-23	Abdelhamid v The Jewish Chronicle
3154	00016-24	Janner v The Times
3155	22632-23/22633-23	Vanda Murray and Yorkshire Water v Sunday Mirror/Sunday People
3160	00666-24	Mitchison v express.co.uk
3144	21746-23	Austin v Metro
3161	22787-23	Wilson v eveningtelegraph.co.uk
3173	21910-23/21911-23	Evans v South Wales Echo/mirror.co.uk