

PRESS COMPLAINTS COMMISSION

The Minutes of the 171st Ordinary Meeting of
The Press Complaints Commission Limited held at
Halton House, 20/23 Holborn, London EC1N 2JD on
Wednesday 2nd June 2010

Present: Baroness Buscombe Chairman
Matti Alderson
John Home Robertson
Anthony Longden
John McLellan
Ian Nichol
Esther Robertson
Eve Salomon
Simon Sapper
Ian Walden
Tina Weaver
Peter Wright

In attendance: Stephen Abell Director

1. Apologies

Apologies were received from Simon Reynolds, John Waine, Julie Spence, Ian MacGregor and Lindsay Nicholson.

The following members of the secretariat attended the meeting as observers: Elizabeth Cobbe, Jonathan Collett, Charlotte Dewar, Will Gore, Becky Hales, Lisi Ke, Scott Langham, Catherine Speller and Stephen Wheeler. Alison Hastings, consultant to the PCC, also attended the meeting as an observer.

2. Minutes

The minutes of the meeting held on 21st April were approved as a correct record of the meeting and for publication.

3. Matters arising:(i) Complaint Nos. 09-5897/09-5898 A Woman v Paisley Daily Express/The Gazette, Renfrewshire

The Commission had discussed this case at its meeting in April but had not had sufficient information to make a ruling. The secretariat subsequently obtained additional information from the Judicial Office for Scotland, which was presented to Commissioners.

Following further discussion, the Commission concluded that there was no breach of the Editors' Code of Practice in this case. As such, the complaint was not upheld:

Paisley Daily Express

A woman complained to the Press Complaints Commission that a court report of October 2009, published in the Paisley Daily Express, had included her name and home address in breach of Clause 3 (Privacy) of the Editors' Code of Practice.

The complaint was not upheld.

The article was a brief court report which stated that a man had appeared in Paisley Sheriff Court on petition charged with assaulting and threatening to kill the complainant. The article named the complainant. The coverage also reported the address of the defendant which, in addition to being where the alleged offence took place, was also the complainant's home. The complainant said that the court hearing was held in private and that her personal details and the specific charges against the defendant were not stated aloud in court.

The newspaper said that the article was an accurate account of the court proceedings based on information from a reliable court source. While he was not present in court, the reporter had been given sight of the petition document by an officer of the court and had copied the details of the case onto his laptop. There was no court order in place preventing the publication of the details. Nonetheless, the newspaper said that it would not name the complainant in any future reporting of the case.

Adjudication

The Commission supports the principle that newspapers are generally entitled to report details that emerge in court cases, including the names and addresses of the parties involved. This is because it is

important that the workings of the judicial system should be open and scrutinised.

However, the article under complaint related to a hearing that had been held in private. The question for the Commission was whether the publication of material in such circumstances was an intrusion into the complainant's private life.

The Commission sought advice from the Judicial Office for Scotland about the procedural position for such hearings. It informed the Commission that, in general, when a person appears on petition charged with an offence, the court is cleared and the hearing is held in private. However, it also confirmed that the media were entitled to receive the basic information relating to such a case: the name and age of the accused; brief details of the charge; the locus of the offence; and the name of the victim. These details would be available to the press should they request them, for example, from the Procurator Fiscal.

The newspaper appeared to have received the information from a source other than the Procurator Fiscal, but had only received – and published – the basic information that would have been available through official channels. On that basis, and bearing in mind that further information about the case was likely to be revealed at later stages of the prosecution, the Commission could not conclude that the publication of the article constituted an intrusion into the complainant's privacy in breach of Clause 3. Given the complainant's concerns, however, the Commission welcomed the undertaking from the newspaper not to identify her in any future reporting.

The complaint was not upheld.

The Gazette

A woman complained to the Press Complaints Commission that a court report of October 2009, published in The Gazette (Renfrewshire), had included her name and home address in breach of Clause 3 (Privacy) of the Editors' Code of Practice.

The complaint was not upheld.

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complainant. The coverage also reported the address of the defendant which, in addition to being where the alleged offence took place, was also the complainant's home. The complainant said that the court hearing was held in private and that her personal details and the specific charges against the defendant were not stated aloud in court.

The newspaper said that the article was an accurate account of the court proceedings based on information from a reliable court source. While he was not present in court, the reporter had been given sight of the petition document by an officer of the court and had copied the details of the case onto his laptop. There was no court order in place preventing the publication of the details. Nonetheless, the newspaper was willing to exercise editorial discretion and not name the complainant in any future reporting of the case.

Adjudication

The Commission supports the principle that newspapers are generally entitled to report details that emerge in court cases, including the names and addresses of the parties involved. This is because it is important that the workings of the judicial system should be open and scrutinised.

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concerns, however, the Commission welcomed the undertaking from the newspaper not to identify her in any future reporting.

The complaint was not upheld.

4. Complaints

(i) Complaint No. 10-1125 Mills v The Mail on Sunday

Peter Wright left the room and took no part in the discussion of this complaint.

After discussion, Commissioners decided not to uphold Ms Mills' complaint and agreed the following wording for the adjudication:

Ms Heather Mills complained to the Press Complaints Commission through her representative, David Law, that an article published in The Mail on Sunday on 7th March 2010, headlined 'The 100 British celebrities who really matter', was inaccurate in breach of Clause 1 (Accuracy) of the Editors' Code of Practice.

The complaint was not upheld.

The article was a celebrity top-100 list, compiled by Piers Morgan, with a short piece about each individual featured. Heather Mills appeared in the list at number 100 and was the subject of considerable criticism by Mr Morgan, who described how he felt "eternal shame" at having "introduced [Ms Mills] to Paul [McCartney]", her former husband.

Ms Mills said that this claim, which had been made on numerous occasions over the years, was incorrect. In fact, Sir Paul had seen his future wife speak at the Daily Mirror Pride of Britain Awards and had contacted her afterwards. They had not met during the event itself, let alone been physically introduced by Piers Morgan.

Ms Mills also said the piece was inaccurate in stating that she was the writer of "nothing but bleating letters of complaint to newspapers and divorce lawyers" (which, claimed Mr Morgan, was in contrast to Sir Paul McCartney, "the brilliantly talented writer of Yesterday and Hey Jude"). She had, in fact, "written at least three books and is currently working on another".

The newspaper said that, in 1999, Mr Morgan – who was then editor of the Daily Mirror – had invited both Heather Mills and Sir Paul McCartney to his newspaper's Pride of Britain Awards. During the

event, at which Ms Mills made a speech, Sir Paul and Mr Morgan had been seated next to one another. Mr Morgan told Sir Paul all about Ms Mills and why he had invited her to the awards.

Mr Morgan's recollection was that he had physically introduced the pair to one another as guests mingled after the awards ceremony. But, in any case, it was not in dispute that, at Mr Morgan's specific suggestion, Sir Paul called Heather Mills after the event and offered to make a substantial donation to her charity. The couple began dating soon afterwards and it could not be doubted that Mr Morgan was the conduit for their getting together.

The newspaper noted that Piers Morgan had made the disputed claim many times in the past and it had never before been called into question by either Ms Mills or Sir Paul.

Adjudication

The central dispute related to Piers Morgan's claim that he had "introduced" Heather Mills to Sir Paul McCartney. Ms Mills said Mr Morgan had not physically introduced the couple; Mr Morgan said his recollection was that he had indeed done just that, during a Pride of Britain Awards event in 1999.

The Commission was not in a position to reconcile these conflicting recollections, especially given the passage of time (indeed, it noted that no complaint about this matter had been made in the past, despite Mr Morgan having made the claim on numerous occasions). However, it was not in dispute that it was at an event organised by Mr Morgan's newspaper that Sir Paul had seen Ms Mills for the first time, that he contacted her shortly afterwards (apparently at Mr Morgan's suggestion) and that he and Ms Mills subsequently began dating. Given that Mr Morgan had invited both guests to the event, the Commission did not consider that it was misleading to suggest that he had effectively been the means to their introduction. It did not consider, therefore, that there had been a breach of Clause 1 (Accuracy) of the Editors' Code of Practice.

With regard to the other point of complaint, relating to Mr Morgan's claim that Ms Mills was the "writer of nothing but bleating letters of complaint to newspapers and divorce lawyers", the Commission acknowledged that Ms Mills had written a number of books. However, in the context of a comment piece, the Commission considered that readers would generally have recognised that Mr Morgan was making a rhetorical point about the relative merits or memorability (in his personal view) of Sir Paul McCartney's written work and Ms Mills' written work. There was no breach of the Editors' Code in relation to this part of the complaint either.

(ii) Complaint No. 10-1036 Salmond v The Mail on Sunday

Peter Wright stayed outside the room and took no part in the discussion of this complaint.

After discussion, the Commission concluded it should not uphold the complaint and agreed the wording below for the adjudication:

Mr Alex Salmond MP, the First Minister of Scotland, complained to the Press Complaints Commission through Levy & McRae Solicitors of Glasgow that two articles headlined "Salmond and the asylum fugitive" and "Salmond faces probe over case of illegal immigrant", published in the Scottish Mail on Sunday on 17th and 24th January 2010, were inaccurate and misleading in breach of Clause 1 (Accuracy) of the Editors' Code of Practice.

The complaint was not upheld.

The first article reported that Mr Salmond was at the centre of an "immigration scandal" after "lobbying for an illegal immigrant facing drugs charges to be allowed to stay in Scotland". A further article the following week said that Mr Salmond was "facing a Westminster investigation" as a result of his support for the application.

The complainant's solicitors said that Mr Salmond had been invited by the owner of a restaurant to support the application of one of his employees to remain in the United Kingdom and had therefore written to the Home Office on his behalf. At the time of writing, both he and his constituent were unaware of the employee's background or the existence of an outstanding criminal warrant.

The complainant said that the coverage had incorrectly suggested (primarily in a quote from an MP) that – in writing to the Home Secretary – he had stepped outside the normal procedures. In addition, at the time of publication of the second article, no complaint had been lodged with the Parliamentary Commissioner for Standards. A complaint was only received on 18th February. It was untrue, therefore, to claim on 24th January that the complainant was "facing" a "probe" into his conduct.

The newspaper said that – while the article referred to the matter as a "scandal" – it did not accuse the complainant of breaking any rules. Its article had reported the position correctly: that Mr Salmond had been unaware of the individual's background when he wrote the letter. It had also quoted opposition MPs who were of the view that the matter was an embarrassment for the complainant. These opinions

were attributed clearly. Mr Salmond had been given an opportunity to respond and his spokesman's comments had been reported.

Moreover, it was the case that Mr Salmond was "facing" an investigation by the Parliamentary Commissioner for Standards. The newspaper had been informed on 23rd January that a member of the public had sent a complaint to him requesting that the matter be investigated, and been sent a copy of this. It did not know why the complaint had not been received until 18th February. The article had made clear that the Standards Commissioner would "now consider if there is enough evidence to justify a preliminary inquiry". Mr Salmond's spokesman had denied any wrongdoing and stated that he would vigorously contest this.

As it turned out, the Parliamentary Commissioner for Standards had considered the matter and decided that it fell outside his remit. The newspaper had reported this in a follow-up article on 7th March. The newspaper made two offers to resolve the complaint: the publication of a letter so that the complainant could clarify his position further; or the publication of a clarification reiterating that the Parliamentary Commissioner for Standards had decided that the matter fell outside his remit.

Adjudication

In the Commission's view, the essential facts of the original story were not disputed. It was accepted that the complainant had written to the Home Secretary on behalf of a Chinese national, who – unbeknownst to the complainant – was subsequently found to be illegally resident, with an outstanding warrant for arrest. This position had been accurately reflected in the articles under complaint.

The newspaper had also carried comments about the situation from named opposition MPs. While the complainant denied the validity of the criticism, readers would recognise that they represented the partisan comment of rival politicians. The complainant's own position in response, and that of the constituent who asked him to write the letter, had been made clear. The newspaper itself had not asserted that the complainant was guilty of wrongdoing. The Commission considered that the criticisms were distinguished as comment in accordance with the terms of the Code.

The newspaper had also referred to the matter as an "immigration scandal", and the Commission believed it was entitled to do so, given the circumstances of the case and the existence of this criticism. It was clear that some regarded the situation as a scandal, even if the complainant did not. The conflicting points of view on the subject were recorded in the articles.

The other issue raised in this case rested on the complaint to the Parliamentary Standards Commissioner. Both parties accepted that a complaint – which the Commissioner was bound to consider – had been lodged by 18th February. The article of 24th January stated that the complainant was “facing” a “probe” or investigation, and that the Commissioner “will now consider if there is enough evidence to justify a preliminary inquiry”. It had not suggested that proceedings were already underway at the time of the article, nor did it speculate as to the outcome of the Commissioner’s considerations. Readers of the 24th January story would be aware that one such outcome might be that no such inquiry would be forthcoming.

Having referred to the existence of the complaint to the Commissioner, the newspaper was obliged to report the subsequent outcome. It had done so in the article of 7th March, making readers aware that the matter was not eventually pursued and that the complainant had not been subject to any disciplinary action. This clarified the position appropriately. Nonetheless, the Commission welcomed the offer of further clarification on the part of the newspaper.

Taking into consideration the coverage as a whole, the Commission did not find a breach of Clause 1 of the Editors’ Code.

Relevant ruling

Foulkes v Sunday Herald, Report 79

(iii) Complaint No. 10-0588 Powell against The Sunday Telegraph

Commissioners discussed the complaint from Ms Powell and reached a decision on her case. Since the adjudication was communicated to the complainant, she has raised a number of issues which are still under consideration. The final outcome of the complaint will be made public in due course.

Update (15.12.10): the adjudication has now been published and is available to read online at <http://www.pcc.org.uk/news/index.html?article=Njg0Nw==>.

(iv) Complaint No. 10-0369 MacLachlan v Daily Record

This complaint had been previously resolved following the publication of a correction. The Commission noted that a delay had taken place in the progress of the complaint partly due to the fact that the complainant

had published his correspondence with the PCC and the newspaper on his blog.

After discussion, Commission members agreed that the system required good faith on the part of everyone involved in the case. As such, it was agreed that standard PCC correspondence would be amended to make clear to both complainants and newspapers that they should not publish details of correspondence during the course of an investigation.

The Commission also agreed that the Chairman should write to the editor of the newspaper, expressing its concerns over the newspaper's part in the delays in the case.

- (v) The Commission formally approved (subject to individual queries on specific complaints raised with the office) the following PCC Papers, which had contained draft adjudications for Commissioners' ratification or otherwise: 4772, 4774, 4775, 4776, 4777, 4778, 4779, 4780, 4781, 4782, 4783, 4784, 4785, 4786, 4787, 4788, 4789, 4790, 4791, 4792, 4793, 4794, 4795, 4796, 4797, 4798, 4799, 4800. All papers had been circulated since the previous Commission meeting.

5. PCC Advertising

Commissioners considered and approved designs for new PCC advertisements. It was agreed that final development of the adverts should continue as swiftly as possible.

6. Chairman and Director's meetings

Commissioners received an update on appointments undertaken by the Chairman and Director.

7. Any other business

In light of several recent examples of newspapers using material obtained using subterfuge, Commissioners discussed issues related to Clause 10 (Clandestine devices and subterfuge). It was agreed that investigating complaints without the consent of individuals involved was problematic but that the PCC should consider issuing guidance on the subject in due course. It was also agreed that, where appropriate, the Commission should contact affected parties and advise them of the possibilities of complaining to the PCC.

The Chairman reported that the 2009 Annual Review had received a largely positive response. All Members of Parliament had received copies.

The Chairman also reported that the secretariat had made initial plans to host a Parliamentary reception in the autumn. Commissioners welcomed the proposal and asked the office to provide updates on political issues affecting the Commission.

8. Date of next meeting

2.00pm on **Wednesday, 14th July 2010** at Halton House, 20/23 Holborn, London EC1.