

Mr Brian McNicholl v Scottish News of the World

Clauses noted: 3

Mr Brian McNicholl of County Derry complained to the Press Complaints Commission that an article headlined "You love Borat", published in the News of the World (Scottish edition) on 15 July 2007, intruded into his private life in breach of Clause 3 (Privacy) of the Code of Practice.

The complaint was upheld.

The article reported that the complainant had been caught by his long-term partner engaging in "secret internet sexychat with a string of Kazakhstani beauties". The complainant said that the information upon which the article was based – and the accompanying photographs – had been obtained from private emails which were held on his company's secure server in Kazakhstan. There was also a revealing webcam picture alleged to be of him. He claimed that his partner (who did not have access to his emails) had made use of a surveillance programme to infiltrate the messages, and that she was motivated by anger at having been jilted.

The newspaper said the complainant's partner had obtained the emails – which were not intrinsically private as they had been sent from a work address – from a shared family computer to which the couple both had access. She had discovered that the complainant, with whom she had a child, had been leading a "secret life of internet pornography, chatrooms, and escort agencies". Her right to freedom of speech in exposing her partner's activities – in addition to the public interest element – outweighed his right to privacy. Having been unable to contact the complainant before publication, the newspaper offered to interview the complainant or publish a letter from him, offers that the complainant rejected.

Adjudication

Regardless of precisely how the complainant's partner had acquired the information, it was not in dispute that she had obtained his emails without consent and supplied them to the newspaper. The paper had, in turn, published extracts from them, along with photographs of the complainant, one of which showed him partially naked. This sort of intrusion would normally require a very strong public interest justification, something that was not a feature in this case. While the woman had a right to discuss their relationship, and clearly had strong views about the complainant and his behaviour, this was not sufficient to warrant publishing information taken from private e-mails to which the woman was not a party. In deciding how to balance the woman's right to free expression with the complainant's right to privacy, the editor had made an error of judgement. The complaint under Clause 3 was upheld.

Relevant ruling

Noble v News of the World, 2004

The complainant also complained under Clause 1 (Accuracy) that the article had confused the names of the women involved, their employment titles and the circumstances in which the pictures were taken. He was also concerned that a specific sexual allegation made by his partner was untrue.

This allegation was clearly framed as the comments of the complainant's partner in accordance with the terms of Clause 1 (iii), which requires the press to distinguish between comment, conjecture and fact. It was not necessary for the Commission to reach a view as to the veracity of the allegation, as it considered the newspaper's offer to publish a letter a sufficient opportunity for the complainant to reply on this point.

While the newspaper was willing to correct any inaccuracies in regard to the other issues raised, the Commission had not seen evidence that they amounted to significant inaccuracies requiring correction under Clause 1. There were no other matters for the Commission to pursue.

Adjudication issued 20/09/2007