

Ms JK Rowling v Scottish Mail on Sunday / Daily Mirror / Daily Record

Clauses noted: 3

Ms JK Rowling complained to the Press Complaints Commission through Schillings solicitors that an article published in the Scottish Mail on Sunday on 21 October 2007, and two further articles published in the Daily Mirror and the Daily Record on 22 October 2007, identified her home address and thereby invaded her privacy in breach of Clause 3 (Privacy) of the Code of Practice.

The complaints were not upheld

The articles

On 21 October 2007, the Scottish Mail on Sunday published an article headlined "JK's Rowling hills", which reported that the Harry Potter author had bought a farm adjacent to the home she already owns in Perthshire. The article was accompanied by pictures showing long-distance views of JK Rowling's home, the neighbouring property that she had recently purchased – both of which were circled in the main picture – and the surrounding countryside. The text of the report included the name of her home, the name of the new property and gave the name of 'the nearby town'.

On 22 October 2007, the Daily Mirror published a similar report, headlined "Rowling Acres hide the new Hogwarts". There were no accompanying pictures, apart from a shot of Ms Rowling, but the article referred to the name of her home and described it as 'near [a named town] in Perthshire'.

On the same day the Daily Record ran a piece under the headline: "Rowling Pastures". The article referred to the name of the complainant's home, the name of the neighbouring property and described them as being 'near [a named town], Perthshire'. A long-distance photograph showed both properties and the surrounding countryside. Like the Mail on Sunday, the Daily Record's photograph circled the two properties.

The complaint

The complainant's solicitors said that all three articles had specifically identified where their client lived and had thereby invaded her privacy in breach of Clause 3 (Privacy) of the Code. They cited earlier rulings by the Commission (Ms Dynamite v Islington Gazette and Rowling v Daily Mirror) in support of their complaint, noting that the PCC has previously said that "when publishing details about a celebrity's home without consent, newspapers must take care to ensure that they do not publish the precise address or material that would enable people to find the whereabouts of the home". Indeed, the Commission has recognised that "high profile individuals may be exposed to security problems if their precise addresses are published". The complainant's solicitors said that their client had constantly striven to protect her privacy and had never put details of her address into the public domain. The fact that others had done so in the past should not, they argued, be allowed to act as a defence to ongoing press intrusion.

The newspapers' replies

Scottish Mail on Sunday

The newspaper said it had gone no further towards identifying JK Rowling's Perthshire home than previous press reports about the house which had been found not to breach the Code. The pictures of Ms Rowling's home were not sufficient to have identified the home's whereabouts. The only additional detail contained in the Mail on Sunday piece was the reference to the 'nearby town of [X]'. However, the article did not say how close to the town the property actually was and, in any case, the link between the property and the nearby town had been made in numerous past articles and on a great many websites.

While defending the article, the Mail on Sunday noted the complainant's concerns and offered not to re-publish details of her home's location unless they became newsworthy.

Daily Mirror & Daily Record

The Mirror Group newspapers responded together. They said that there was no information of any substance in relation to the whereabouts of the home beyond what had already been published. They added that the neighbouring property, which Ms Rowling had recently purchased, was not her home. Moreover, they suggested that there was no evidence of the complainant having had her security threatened as a result of her address being re-published.

The newspapers maintained that the name of the complainant's home, the name of the nearby town and the name of the county in which both were situated were all well-established in the public domain, and produced a table of information which had been published previously in newspapers. Their republication, even accompanied by photos of Ms Rowling's home, was not a breach of the Code. The newspapers also relied on part of the earlier ruling by the Commission in *Rowling v Daily Mirror*, PCC Report 72.

Nonetheless, the newspapers indicated that they would not, in the future, use a picture of the complainant's home in circumstances where they named the property and the town. Similarly, they would not name the property and the town in circumstances where they used a picture. The only exception to this would be if the house itself became newsworthy. This offer was rejected by the complainant's solicitors.

Further comments by the complainant's solicitors

The complainant's solicitors maintained that the articles now under complaint were strikingly different to that complained of in 2005 (against the Daily Mirror). The Scottish Mail on Sunday and Daily Record articles both included pictures that highlighted the whereabouts of their client's home by setting the property in the context of its surroundings.

Moreover, the articles all made reference to the name of the property and the nearby town. This information effectively provided the address of the property. While the same information had indeed appeared in four other articles in the last four years, it was erroneous to assume that because no complaint had been lodged – quite possibly because JK Rowling was not aware that those pieces had appeared – the complainant consented to the details being published. It was well-known that she was keen to protect her privacy and the newspapers should have been aware of this.

In any case, the current position in UK law is that, just because information is available, does not mean it can be freely published. There was, said the complainant's solicitors, a vast difference between information being passively available to those who seek it out and newspapers actively putting it in front of the public. Whether or not the complainant's security had actually been threatened, it had certainly been put at risk by the newspapers' actions.

The complainant's solicitors argued that "this is a simple matter of whether...a newspaper should be entitled to publish the full address, with or without photographs, identifying the location of the home of an individual or family".

Adjudication

The Commission has developed a common sense approach to dealing with complaints about the publication of addresses. It accepts that it is legitimate and in the public interest for addresses to be published on some occasions – for instance, to assist the correct identification of defendants in court cases – and that addresses themselves are not intrinsically private. On the other hand, it has

said that identifying the whereabouts of the homes of high profile people who may attract stalkers or unwanted attention from obsessed fans may potentially breach the Code. When considering a potential breach, it is clearly relevant to consider whether the publication has itself been responsible for putting new material into the public domain. If the published information is already publicly available to a significant extent and is not therefore 'revealed' by the article, it follows that the piece will probably not have been of any material assistance to those who may wish to locate the property.

It is also the case that the Commission's rules in this area do not amount to a ban on stories or pictures about individuals' houses. The main concern is the potential nuisance caused to the complainant by newspapers revealing the precise location of their home.

In this case, the complainant's solicitors were right to point out that the Commission has regard to the degree to which information is in the public domain. In another complaint brought by JK Rowling about the Daily Mirror – which was upheld in part – the Commission suggested that land registry documents and her association on the electoral roll with a property was not sufficient justification for pinpointing the precise whereabouts of her London property (see *Rowling v Daily Mirror*, PCC Report 72).

But these complaints were different for two reasons. The principal one was that the complainant's ownership of her Perthshire home, as well as the name of the property, the county in which it was situated and the town it was near, were in the public domain to a considerable extent – far more so than simply on land registry documents and the electoral roll. Not only had this information been published in the media, it also appeared in considerable detail on the internet, including on the Wikipedia website, where the complainant's home even had its own entry as a dwelling of some historical note. Restraint upon further publication of the information would, in the Commission's view, serve no purpose.

In any case, much of the information contained in some or all of the pieces – a view of the properties, the name of the main house, and the county in which it was located – was the same or similar to the information previously held by the Commission not to breach the Code (again, see *Rowling v Daily Mirror*, PCC Report 72). What was new about these stories was the information that the complainant had bought a named adjoining property – a relatively trivial piece of news and one which did not, in itself, add anything to the public domain to pinpoint her address. The Commission did acknowledge that the previous Daily Mirror article did not name the nearby town, unlike the articles currently under consideration. However, that piece of information was well-established in the public domain as noted previously.

The second factor that distinguished these complaints from the previous ruling about identification of the complainant's London property, was that none of the articles, on a close examination, did publish the precise whereabouts of the home. They did not name the road on which it was situated, nor specify precisely where it was in relation to the nearby town. Similarly, the articles had not used photographs that pinpointed the exact location of the complainant's properties – even by showing some of the surrounding countryside. This appeared to show that care had been taken to abide by the parameters that the Commission has previously set out on the reporting of addresses.

While the Commission appreciated that the complainant is someone who guards her privacy closely – and clearly objected to the attention given by the press to her property purchase – it did not consider that there was anything in these articles that contravened the Code or the Commission's guidelines.

Relevant rulings

Rowling v Daily Mirror, 2005

Dynamite v Islington Gazette, 2003

A well-known entertainer v Mail on Sunday, 2000

Adjudication issued 06/05/2008