

Mr Peter Foster v The Sun

Clauses noted: 10

Mr Peter Foster of Australia complained to the Press Complaints Commission that private telephone conversations between him and his mother had been intercepted and published in The Sun on 13 and 14 December 2002 in breach of Clause 8 (Listening devices) of the Code of Practice.

The complaint was upheld.

In late 2002 a number of newspapers reported that the complainant had been involved in negotiating the purchase of property in Bristol by the Prime Minister and his wife. As part of its investigations into the affair The Sun obtained and published details of phone conversations between the complainant and his mother.

The newspaper, then under its former editor, did not deny that private conversations had been intercepted and then published. It argued, however, that their publication was in the public interest because they helped to ensure that the public was not misled further by those involved in the saga, and because they established a clearer picture of events surrounding what became known as 'Cheriegate'.

The complainant said that publication of the conversations was not in the public interest since it did not contradict anything he had said which might have misled the public. Indeed, he had made no public statement. The simple fact that the story was high profile did not justify the newspaper's intrusion into his privacy.

Adjudication

In reaching its decision on this matter, the Commission started from the premise that eavesdropping into private telephone conversations – and then publishing transcripts of them – is one of the most serious forms of physical intrusion into privacy.

Of course, publication can be justified under the Code of Practice where the public interest is clearly served. But in view of the serious nature of such intrusion – something the Code has been very successful in preventing since tight restrictions were included in it in 1993 – the Commission must set the public interest hurdle at a demonstrably high level.

In this case, the Commission considered that the text of the telephone conversations generally served merely to illustrate the story in a manner which was already well known. Although it is arguable that some elements of the story might, presented on their own, have contributed to the development of 'Cheriegate', the Commission did not consider that new information of the significance required to justify breaching the strict terms of the Code was revealed. The Commission expects a very strong public interest justification for breaching this clause – and the newspaper's defence did not meet it.

For the Commission to have rejected this complaint would be unacceptably to expose all those involved in high profile news stories to unjustified physical intrusion in a way that undermined the tough protection available under the Code.

Mr Foster also complained that the Sun articles of 13 and 14 December were inaccurate in breach of Clause 1 (Accuracy) of the Code, as was a further article of 17 December.

The complaints were rejected.

The complainant said that the transcript published on 13 and 14 December had been edited so as to be misleading to readers. More specifically, he claimed that the article was inaccurate in suggesting that he had tried to sell his story to Granada TV and that he had set out to 'ruin' Cherie Blair. Moreover, he did not have a brother called Paul.

In a subsequent article the newspaper accused the complainant of telling lies in a statement he had released after it published the transcripts. The complainant said that these accusations were unfounded.

The newspaper said that the transcripts had only been edited to remove repetition and on the few occasions that private information regarding the complainant's niece had been discussed.

The complainant maintained that the transcripts had been selectively edited and noted that the Sun had refused to supply the tapes of his conversations. Had the full transcripts been published it would have been clear that he and his mother had talked about other issues as well.

Adjudication

With regard to the first complaint of inaccuracy the Commission did not consider that there was evidence of the conversations having been edited so as to be misleading. The complainant had not denied that he had made the remarks attributed to him and the Commission did not conclude that the transcripts had been published in a distorted way in breach of Clause 1 of the Code.

On the more specific points of alleged inaccuracy the Commission concluded that there was no breach of Clause 1 in relation to the suggestion that the complainant had tried to sell his story to Granada TV. Although the newspaper did not appear to have offered any evidence to support this specific claim it did appear to be the case that the complainant had attempted to sell his story to other media. Any alleged inaccuracy about the identity of the company to which he was trying to sell the story was not, therefore, of such significance as to raise a breach of the Code. The apparent error regarding the third party in the conversations being described as the complainant's brother was also not of such significance to raise a breach under Clause 1.

As to whether the complainant had set out to 'ruin' Mrs Blair, the Commission considered that this was clearly the view of the newspaper, which it was entitled under the Code to share with its readers, based on its interpretation of the complainant's behaviour. Similarly, the Commission found no breach of the Code in the newspaper's assertion, published on the 17 December, that the complainant had not told the truth in his statement to the press. The newspaper had clearly interpreted the statement in its own way and formed a robust view about the complainant, something that it was entitled to do under the Code.

Adjudication issued 2003