

***Ms Carolyn Cunningham and Mr Paul John Ferris v Daily Record***

Clauses noted: 1, 3, 4, 6

Ms Carolyn Cunningham and Mr Paul John Ferris complained to the Press Complaints Commission that two articles published by the Daily Record on 5 September 2007 headlined 'Child No. 3 for Ferris' and 'Baby girl for Ferris' contained inaccuracies in breach of Clause 1 (Accuracy) and were intrusive in breach of Clause 3 (Privacy) and Clause 6 (Children). They also raised concerns under Clause 4 (Harassment) of the Code of Practice.

The complaint was not upheld. On one point, the Commission considered that sufficient remedial action had been offered to remedy any breach of the Code. The other complaints did not raise a breach of the Code.

The articles reported the birth of the complainants' daughter, identified her by name, and quoted an 'underworld source' saying that Mr Ferris (described in the paper as a 'gangster') wanted to keep the birth secret to protect his family from revenge attacks. The complainants said they had not sought to keep the birth secret, and were confident that the quoted source – and therefore the threat of reprisals – did not exist.

They said their daughter's identity had been 'stolen', and complained that her whereabouts had been made public. They argued that the newspaper had used the fame of Paul Ferris as sole justification for publishing details of his daughter's private life in breach of Clause 6 of the Code. Finally, they said their parents had been alarmed by approaches from reporters, and complained that journalists had remained outside Ms Cunningham's former home for three days and had sought information about her son. They had only left when asked to do so by neighbours.

While standing by its source, the paper apologised for failing to contact the complainants prior to publication, and offered them the opportunity to respond to the article in a published letter or follow up piece. However, it did not accept that it had stolen the complainants' daughter's identity by revealing her name and her geographical location. The question of intrusion was not relevant as the child was only six months old.

The newspaper denied harassing anyone. It had not sought information about Ms Cunningham's son, and had not been asked to leave by any former neighbour.

***Adjudication***

The claim that Mr Ferris was eager to keep the birth of their daughter a secret was attributed in the article to an 'underworld source'. The complainants doubted whether such a source existed: their announcement of the news to family and friends showed that they had not tried to keep it secret. But the Code requires journalists to protect confidential sources of information, and as such the Commission could not test the reliability of the newspaper's source in this case. In such circumstances, and particularly when the complainants had not been given the chance to be quoted in the article, it was right for the newspaper to offer them the opportunity to record their position publicly. The Commission considered that the offer of a letter or further article would have enabled them adequately to dispute the claims of secrecy. Although this was not welcomed by the complainants, it was a sufficient response in terms of the newspaper's obligations under the Code to this part of the complaint.

There was no breach of Clauses 3 (Privacy) or 6 (Children) of the Code in relation to the publication of the infant's full name and the county in which she and her parents lived. The subject matter of the article chiefly concerned the fact of the birth and the (disputed) claim that the child's parents had tried to keep it secret through fear of revenge attacks. The information about the child – her name, the fact she had been born, and the county in which she lived – was superficial, and, in relation to

her name and birth, a matter of public record by virtue of their inclusion on her birth certificate. Stating the vague whereabouts of the family home was not intrusive into the family's home life in breach of Clause 3. In any case, in light of the child's age, the impact on her of publication would have been negligible.

Turning to the complaint of harassment, it was important for the Commission to point out that Clause 4 does not amount to a general prohibition on journalists asking questions. Rather, it says that they must not persist in their attentions, once asked to desist. While there was a dispute as to what had happened on this occasion, the Commission saw no evidence that journalists had continued questioning or pursuing anyone having been asked to desist. It also noted that none of the subjects of the alleged harassment had themselves complained. There were therefore no matters to pursue under this part of the Code.

Adjudication issued 15/12/2007