

***Mr Alex Salmond MSP v Scottish Mail on Sunday***

Clauses noted: 1

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, 2009

Adjudication issued 03/06/2010