
MINUTES of the COMPLAINTS COMMITTEE MEETING
Tuesday 7th September at 10.30am
Field Fishers, Riverbank House, 2 Swan Ln, London EC4R 3TT

Present Lord Edward Faulks (Chairman)
Nazir Afzal (remotely)
Andrew Brennan
David Hutton
Helyn Mensah (remotely)
Asmita Naik
Mark Payton
Andrew Pettie
Miranda Winram (remotely)

In attendance: Charlotte Dewar, Chief Executive
Michelle Kuhler, PA and minute taker (remotely)
Robert Morrison, Head of Complaints

Also present: Members of the Executive:

Elizabeth Cobbe (remotely)
Rosemary Douce (remotely)
Alice Gould
Sebastian Harwood
Emily Houlston-Jones
Natalie Johnson
Tonia Milton (remotely)
Molly Richards
Martha Rowe

Observers: Tristan Davies, Complaint Committee member (remotely)
Jonathan Grun, Editors' Code of Practice Committee (remotely)

1. Apologies for Absence and Welcomes

Apologies were received from Alastair Machray.

2. Declarations of Interest

There were no declarations of interest received.

3. Minutes of the Previous Meeting

The Committee approved the minutes of the meeting held on 20 July.

4. Matters arising

There were no matters arising.

5. Update by the Chairman – oral

The Chairman reminded members that Janette Harkess and Peter Wright had recently left the Committee. He shared an email of thanks from Peter. He also reflected on the recent, sad loss of Lara Fielden.

The Chairman welcomed new members to the Complaint Committee: Tristan Davies, who was attending the meeting as an observer and Allan Rennie, as editorial member for Scottish publications.

The Chairman informed the committee that Lord David Triesman had been appointed as Chair of IPSO's Appointments Panel and that Victor Olowe and Catherine Steele had been appointed as panel members.

The Chairman welcomed Robert Morrison as the new Head of Complaints, and Jonathan Grun from the Editors' Code Committee as an observer.

6. Complaints update

The Head of Complaints updated the Committee on his induction to the role and his priorities for the coming months. He updated the Committee on a few complaints of note.

7. Complaint 01348-21 IPSO v Tatler

The Committee discussed the complaint and ruled that the complaint should not be upheld. **A copy of the ruling appears in Appendix A**

8. Complaint 04659-21 A woman v The Times

The Committee discussed the complaint and ruled that the complaint should be partial upheld, under clause 2. **A copy of the ruling appears in Appendix B.**

9. Complaint 04917-21 Akhtar v The Sunday Times

The Committee discussed the complaint and ruled that the complaint should not be upheld. **A copy of the ruling appears in Appendix C.**

10. Complaints not adjudicated at a Complaints Committee meeting

The Committee confirmed its formal approval of the papers listed in **Appendix D.**

11. Any other business

There was no other business.

12. Date of next meeting

The date of the next meeting was confirmed as 12th October 2021.

The meeting ended at 13.30pm

Appendix A

Draft Findings of the Complaints Committee – 01348-21 IPSO v Tatler

Summary of Complaint

1. On the recommendation of the Board of the Independent Press Standards Organisation (IPSO), the Complaints Committee of IPSO initiated an own-volition inquiry into whether Tatler had breached Clause 16 (Payment to criminals) of the Editors' Code of Practice in relation to an article headlined "Diary of a Gen-Z prohibition partygoer", published on 4 January 2021.
2. The article was presented as a series of extracts, taken from a diary of an anonymous "prohibition partygoer", detailing their social life during a period of time when "social gatherings were banned" due to Covid-19 restrictions. Over the course of the article, the writer described themselves attending a series of indoor events with large numbers of attendees: a "16 person [...] dinner party"; a party in a private underground carpark attended by a "throng" of people, where "attendees have been made very aware that if the police turn up, any fine imposed will be split between the guests"; a "night in the country" with "eight [...] of my nearest and dearest"; an "illegal rave" where "400 unknowns disregard social distancing [...] There's not a face covering in sight"; and a "fancy dress fiesta" with "40 or so partygoers". The writer claimed that they had "rebelled" against "draconian restrictions" and described the "illicit thrill I get simply from disobeying the embargo on mixing between households". The final extract from the diary described the writer as feeling "a little peaky".
3. Between 29 October and 5 November 2020, London was in Tier 2, and the relevant legislation stated that "No person may participate in a gathering in the Tier 2 area which - (a) consists of two or more people, and (b) takes place indoors". On 5 November the country went into lockdown for the second time, and the relevant legislation stated that "No person may leave or be outside of the place where they are living without reasonable excuse". Both pieces of legislation allowed for an authorised person to issue a fixed penalty notice where there was a reasonable belief an adult had committed an offence under the regulations. The legislation described a fixed penalty notice as "a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to an authority specified in the notice".
4. The publication confirmed that: the article had been commissioned on 29 October 2020; it had been sent to print on 27 November 2020; and the writer had been paid £400 at the time they were commissioned to write the piece. It noted that Clause 16 of the Editors' Code states that "Payment or offers of payment for stories [...] must not be made directly or via agents to convicted or confessed criminals". It did not consider the writer to be either a convicted or

confessed criminal: they had not been issued with a fixed penalty notice, and even in circumstances where a fixed penalty had been issued and paid, no criminal conviction or record would have resulted. The publication maintained that it was by no means inevitable that the activities described in the article would have resulted in a fixed penalty notice – for example, it noted that journalists had been given special exemptions from some restrictions to ensure that they could effectively report on the pandemic, or the police may have found there was a reasonable excuse for the activity - so it did not consider the conduct of the writer to be criminal. Furthermore, it noted that the police sort to resolve breaches of regulations through engagement and explanation before resorting to enforcement: the writer had therefore been several steps removed from receiving a fixed penalty notice, and even further removed from receiving a conviction, which would have required non-payment of the fine and a court appearance resulting in a conviction. It also provided information from the Joint Committee of Human Rights who called for a decision that no criminal record should result from Covid-19 fixed penalty notices.

5. The publication also stated that the article did not exploit, glorify, or glamourise crime. It said it was a satirical piece, and that the last paragraph of the article recognised that the writer had been exposed to a health risk. It said that when the article was first discussed, the coronavirus guidelines were changing, with members of the public reacting to them differently and that there was public unrest as a result. It said several writers had contacted the publication regarding the underground party scene in England, and after extensive discussion it decided to commission a feature in order to accurately investigate this scene. The publication said during these discussions it was decided that the events in the article were a social phenomenon occurring at a significant moment in history and that it had decided it was in the public interest to report on these events, and that the writer had to attend such events in order to conduct the investigation. It noted that in the time between the article being commissioned, printed and put on sale, the Coronavirus situation had escalated dramatically and on this basis the article was not published online.

Relevant Code Provisions

Clause 16 (Payment to criminals)*

- i) Payment or offers of payment for stories, pictures or information, which seek to exploit a particular crime or to glorify or glamorise crime in general, must not be made directly or via agents to convicted or confessed criminals or to their associates – who may include family, friends and colleagues.
- ii) Editors invoking the public interest to justify payment or offers would need to demonstrate that there was good reason to believe the public interest would be served. If, despite payment, no public interest emerged, then the material should not be published.

The Public Interest (*)

There may be exceptions to the clauses marked * where they can be demonstrated to be in the public interest.

(1). The public interest includes, but is not confined to:

- Detecting or exposing crime, or the threat of crime, or serious impropriety.
- Protecting public health or safety.
- Protecting the public from being misled by an action or statement of an individual or organisation.
- Disclosing a person or organisation's failure or likely failure to comply with any obligation to which they are subject.
- Disclosing a miscarriage of justice.
- Raising or contributing to a matter of public debate, including serious cases of impropriety, unethical conduct or incompetence concerning the public.
- Disclosing concealment, or likely concealment, of any of the above.

(2). There is a public interest in freedom of expression itself.

(3). The regulator will consider the extent to which material is already in the public domain or will become so.

(4). Editors invoking the public interest will need to demonstrate that they reasonably believed publication - or journalistic activity taken with a view to publication - would both serve, and be proportionate to, the public interest and explain how they reached that decision at the time.

(5). An exceptional public interest would need to be demonstrated to over-ride the normally paramount interests of children under 16.

Findings of the Committee

6. The Committee considered Clause 16 in relation to both the letter of the Code as well as the spirit. Clause 16 states that payment must not be made to "convicted or confessed criminals or to their associates" for articles which seek to exploit a particular crime or to glorify or glamorise crime in general. In order to establish a breach of this clause, the Committee must be satisfied that: payment had been made for the story; the story exploited, glorified or glamorised a crime; and the recipient of the payment was - or was an associate of - a confessed or convicted criminal.

7. There was no question that payment had been made by the publication to the journalist for this article, and that the article detailed behaviour on the part of the journalist which the journalist themselves suggested in the article would contravene Coronavirus legislation. There was some ambiguity, however, as to whether an offence under these regulations amounted to a crime, and therefore whether the journalist could be considered a “confessed criminal” under the terms of Clause 16.

8. The Committee considered this question in detail and concluded, on balance, that they could not, for two reasons. First, the context and nature of the offence was relevant: the status of offences established by the emergency Coronavirus legislation was highly unsettled and subject to differing and changing interpretations. Second, the penalty prescribed under the legislation for such an offence was a fixed penalty notice, payment of which discharged the offender of “any liability to conviction for the offence”. In these circumstances, the Committee did not consider that the journalist could be considered a “confessed criminal” in the sense intended by Clause 16. In light of this ambiguity, the Committee further did not consider that the article necessarily amounted to glorification of “a crime”. For these reasons, it found no breach of Clause 16.

9. The Committee noted finally that in reaching this conclusion, it was not making any finding as to the adequacy of the public interest justification advanced by the magazine for the payment for this material.

Conclusions

10. The complaint was not upheld.

Remedial Action Required

11. N/A

Date complaint received: 14/06/2021

Date complaint concluded by IPSO: 07/10/2021

Appendix B

Decision of the Complaints Committee – 04659-21 A woman v The Times

Summary of Complaint

1. A woman complained to the Independent Press Standards Organisation that The Times breached Clause 2 (Privacy) and Clause 11 (Victims of sexual assault) of the Editors' Code of Practice in five articles headlined:

- "Martyn Percy, dean of Oxford's Christ Church college, steps aside after new complaint", published on 19 November 2020.
- "College dean Martyn Percy faces sex investigation despite police not pressing charges", published on 9 December 2020.
- "Is the war of Christ Church v the dean at an endgame?", published on 16 December 2020.
- "Oxford college accused of 'toxic' bid to paint dean Martyn Percy as a sex pest", published on 9 January 2021.
- "Can there be a truce in the bitter battle of the dean v Christ Church", published on 17 March 2021.

2. This decision is written in general terms, to avoid the inclusion of information which could identify the complainant.

3. The articles reported on an investigation into a complaint made by the complainant and an ongoing dispute between the subject of the complaint and his employer.

4. The second article reported that an individual had been "accused of sexually assaulting a woman in Christ Church Cathedral after a Sunday service in October" and stated that the police had concluded there was not enough evidence to prosecute him. It also contained a quote from the Thames Valley police which stated that its investigation was concluded and gave the precise date of the alleged sexual assault. The article included a statement from Christ Church Cathedral.

5. The third article appeared online and gave the details of the allegation, saying that the Dean "paid her a compliment about her hair and stroked it for ten seconds without permission". It also reported an indication of the time of the alleged assault; named the specific location in which it allegedly occurred; and gave information about the woman's professional role. It described the police investigation in which both parties were interviewed and that a sample of the woman's hair was taken for DNA analysis. The article reported on the woman's

complaint and quoted directly from evidence she gave as part of the process about her emotional reaction to the event. It noted that an investigation had been undertaken by the employer of the subject of the complaint which had concluded that “on the balance of probabilities it is more likely than not that the incident did occur as alleged and that this is a safeguarding allegation”. The article also reported that the allegations were denied. Furthermore, it also commented on the ongoing employment law disputes between the subject of the complaint and his employer and the tensions between them over his approach to his professional role.

6. The fourth article appeared online and reported on accusations against the employer and how it was handling the allegations. It repeated the details, location and gave an indication of the time of the alleged assault.

7. The fifth article appeared in print and reported on the employer’s annual general meeting and the allegations which had been made against the employee, describing the detail of the allegations in addition to the location and indication of the time of the alleged assault.

8. The fifth article also appeared online in substantially the same format.

9. The complainant was the woman who had made the complaint. She said that in this series of articles, information had been published which would lead to the identification of her as a victim of sexual assault in breach of Clause 11. She said this information included: her gender; the date of the alleged assault; the specific location of the alleged assault; more precise information about her job role; specific details of the alleged assault; and that a sample of her hair had been collected by the police for DNA analysis. The complainant also said that other publications had published further details that could identify her: indicating her age and further information regarding her professional role. The details published in the articles under complaint were more likely to identify her as a result of this, via jigsaw identification.

10. The complainant said that the details enabled a wide circle of people with knowledge of the Cathedral and the way in which it was run, as well as those who regularly attended services at the Cathedral, to identify her. The complainant provided a detailed explanation as to how she considered that the information included in the series of articles, such as the location and timing of the alleged assault and other details of the circumstances surrounding the incident, was sufficient to enable those with this knowledge of the cathedral to narrow down the identity of the victim to her.

11. The complainant also stated that the third article intruded into her privacy in breach of Clause 2, as it quoted from the evidence she had provided in support of her complaint and the investigative report of the employer of the subject of the complaint, both of which she said were highly confidential and not available to the public. She said that she had a reasonable expectation of privacy in relation to the information contained in the report, including the comments she had

made about her reaction to the incident, which had been quoted by the publication. She noted that a redacted version of the complaint was published online on 1 June 2021 which did not include the published information.

12. The publication did not accept a breach of Clause 11 of the Code. It said that the information in the articles, whether considered separately or cumulatively, could not lead to the likely identification of the complainant as a victim of sexual assault. It emphasised that the word “likely” in Clause 11 indicated that there must be a real risk of this being the case.

13. The publication said that the date and nature of the incident had been taken from the police and employer’s public statements on the incident. The publication said that the Sunday services were well-attended and frequented by clergy, choristers, other singers and musicians, liturgical assistants, as well as cathedral staff and volunteers, and therefore giving the date and location of the assault would not lead to the likely identification of the complainant, given the large number of other attendees on the day. Further, it stated that anyone likely to identify the complainant from the articles would have to have special knowledge that would help them to deduce her identity. This was a very small pool of people who would likely already be aware of the complainant’s identity through other means.

14. The publication noted that the complainant wrote an anonymous letter to another publication, in which she described herself as “the woman who made the complaint about [named respondent]’s conduct in Christ Church Cathedral on October 2020” which was published in print and online. The letter repeated the date of the assault, specified who was able to enter the space in which the alleged assault occurred and indicated her approximate age. The publication emphasised that this letter would have been read by thousands of people, and repeated information about the date and location of the alleged assault which had appeared in its own coverage, and contained additional information about her age, connection with the Cathedral and the restrictions in accessing the place in which the alleged assault occurred. The publication said it could therefore be assumed that the complainant was satisfied that there was no likelihood of her being identified on the basis of the information in this letter, as she had chosen to disclose it herself.

15. The publication said it was clear from both the national and specialist press coverage it had attracted that the complaint was the subject of intense discussion amongst those interested in church affairs given the ongoing disputes between the subject of the complaint and his employer, and that knowledge of the alleged incident had been circulating amongst those close to the issues before any press reports were published. The college had felt obliged to release a statement on the subject on 9 January 2021, on the same date as the fourth article. This statement said that “since the complaint was made, there have been numerous attempts to identify, intimidate and gaslight the victim both directly and through the media”. The publication pointed to a number of Anglican blogs which stated explicitly what the college statement had implied: that the complainant’s identity

was known beyond the small group with proper involvement in the complaints process, and that this knowledge was not a result of its press coverage.

16. In regard to Clause 2, the publication accepted that the documents from which it quoted were confidential. However, it did not consider that the complainant had a reasonable expectation of privacy over the fact of the allegation or the extracts from (anonymised) documents which related to the allegation. Provided the complainant was not identified, the publication considered itself free to report the substance of her complaint. It said that the extracts it reported from the documents explained the substance of the complaint and balanced the article in favour of those who raised and prosecuted it without making the identification of the complainant likely and without disclosing any personal or sensitive information.

17. The publication also advanced a public interest argument in relation to Clause 2. It stated that the public interest was carefully considered in discussions between the reporter and the head of its editorial legal department, along with senior editors involved as and when required. When the complainant made her allegation of sexual assault, careful consideration was given to its relevance in the context of a wider long-running dispute between the subject of the complaint and his employer, which involved allegations of harassment of him; a denial of natural justice to him; and a questionable use of his employer's money. It was agreed that there was a clear public interest in reporting it in that context. The publication of the third article had been delayed by a week due to the legal department being busy so that the questions of public interest could be properly reviewed, which was done in a series of telephone conversations between the reporter and the head of the legal department before publication.

18. The complainant noted that she had written the letter referred to by the newspaper after four of the five articles under complaint had already been published. She also said that she felt forced to write this letter in the face of the public discussion of her case, which the articles under complaint had partly generated. She said that by the time her letter was published confidential information about her had already been placed in the public domain, and she had submitted the letter in order to counteract inaccuracies and leaked information that had been published in both the articles under complaint and other sources.

Relevant Code Provisions

Clause 2 (Privacy)*

- i) Everyone is entitled to respect for their private and family life, home, physical and mental health, and correspondence, including digital communications.
- ii) Editors will be expected to justify intrusions into any individual's private life without consent. In considering an individual's reasonable expectation of privacy, account will be taken of the complainant's own public disclosures of information

and the extent to which the material complained about is already in the public domain or will become so.

iii) It is unacceptable to photograph individuals, without their consent, in public or private places where there is a reasonable expectation of privacy.

Clause 11 (Victims of sexual assault)

The press must not identify or publish material likely to lead to the identification of a victim of sexual assault unless there is adequate justification and they are legally free to do so. Journalists are entitled to make enquiries but must take care and exercise discretion to avoid the unjustified disclosure of the identity of a victim of sexual assault.

The Public Interest (*)

There may be exceptions to the clauses marked * where they can be demonstrated to be in the public interest.

(1.) The public interest includes, but is not confined to:

- Detecting or exposing crime, or the threat of crime, or serious impropriety.
- Protecting public health or safety.
- Protecting the public from being misled by an action or statement of an individual or organisation.
- Disclosing a person or organisation's failure or likely failure to comply with any obligation to which they are subject.
- Disclosing a miscarriage of justice.
- Raising or contributing to a matter of public debate, including serious cases of impropriety, unethical conduct or incompetence concerning the public.
- Disclosing concealment, or likely concealment, of any of the above.

(2.) There is a public interest in freedom of expression itself.

(3.) The regulator will consider the extent to which material is already in the public domain or will become so.

(4.) Editors invoking the public interest will need to demonstrate that they reasonably believed publication - or journalistic activity taken with a view to publication - would both serve, and be proportionate to, the public interest and explain how they reached that decision at the time.

(5.) An exceptional public interest would need to be demonstrated to over-ride the normally paramount interests of children under 16.

Findings of the Committee

19. The complainant had made a complaint under Clause 11 of the Code, which the publication accepted was engaged, and the Committee noted that the clause states that newspapers must not publish material “likely” to lead to the identification of a victim of sexual assault. The Committee therefore considered whether the information contained in the articles under complaint would likely lead readers who were previously unaware of the complainant’s identity to identify her.

20. The information in the article that the complainant considered identified her was: her gender; the date of the alleged assault; the specific location of the alleged assault; information about her connection to the Cathedral; specific details of the alleged assault; and that police had collected a sample of her hair for DNA testing. The Committee did not agree that describing the details of the alleged assault, to which there had been no witnesses, or the sample that had been taken by police, which was generic in nature, identified the complainant. With regards to her gender and the date of the assault, these had already been put into the public domain by the police and by the statement issued by the employer of the subject of the complaint. The further information, which related broadly to the circumstances of the incident, was potentially identifying only to those with special knowledge of the cathedral, a subset of whom (the size of which neither the complainant nor the Committee was able to determine with certainty) were already aware of the complainant’s identity through other means.

21. When taking into account the information within the articles, the information already in the public domain prior to its publication, and the fact that the complainant’s identity was already known to some of those with direct knowledge of the circumstances, the Committee did not consider that the articles were likely to lead to the complainant’s identification. In circumstances where the information published was not likely to identify the complainant to anyone who was not previously aware of her identity, there was no breach of Clause 11.

22. The Committee then turned to the complaint under Clause 2. Both parties accepted that the complainant’s identity was known to a number of people for reasons unconnected to the press coverage the case had attracted. These included those connected to the Cathedral who knew, in an official capacity, about her complaints to the police, the employer and the Church of England, and others who were or had been made aware of her identity through other means. Therefore, for the purposes of Clause 2, the Committee considered that the information contained in the articles would be associated with the complainant by those who were able to identify her. The question for the Committee was whether, given that the complainant was already identifiable to a number of people, the publication of extracts from confidential documents in support of her complaint intruded into her private life.

23. The information in the third article under complaint came from a confidential report, and included the complainant's comments on her emotional reaction to the alleged assault. Where these comments related to the complainant's personal emotions and had been made during confidential proceedings on the assurance that they would not be published, the Committee found that she had a reasonable expectation of privacy over this information. The disclosure of this personal account to those able to identify her, with whom the complainant might not necessarily have chosen to share her personal feelings about the alleged assault, represented an unjustified intrusion into her private life. This raised a breach of Clause 2.

24. The Committee then considered whether there was an overriding public interest in the publication of this information which would justify the intrusion into the complainant's private life. It noted that the publication had engaged in discussions prior to the publication of each article regarding the public interest in reporting the allegations in the context of the long-running dispute between the subject of the complaint and his employer. The Committee accepted that the subject of the article, an allegation of criminality by a senior leadership figure at a public institution and controversy over the handling of this allegation, was in the public interest, and that the publication of certain information taken from the documents had the potential to contribute to public debate about this issue. On balance, however, the Committee did not consider that there was a public interest sufficient to justify the publication of the quotation from the complainant's evidence about her emotional reaction to the incident. In the view of the Committee, the quotation of this material in this verbatim form did not contribute to the broader debate about the allegation and the employer's handling of it to an extent that was sufficient to justify the intrusion into the complainant's privacy, given the sensitive nature of the material and the circumstances in which the complainant had made the disclosure: as part of a process that she believed would remain confidential. The Committee upheld the complaint under Clause 2.

Remedial Action Required

25. Having upheld the complaint under Clause 2, the Committee considered the remedial action that should be required. Given the nature of the breach, the appropriate remedial action was the publication of an upheld adjudication.

26. The Committee considered the placement of this adjudication. The adjudication should be published on the newspaper's website, with a link to the full adjudication (including the headline) appearing on the top half of the newspaper's homepage, on the first screen, for 24 hours; it should then be archived in the usual way. A link to the adjudication should be published with the article, explaining that it was the subject of an IPSO adjudication, and explaining the amendments that have been made. The headline to the adjudication should make clear that IPSO has upheld the complaint, refer to the subject matter and be agreed with IPSO in advance of publication. The publication should contact IPSO to confirm the amendments it now intends to make to the article to avoid

the continued publication of material in breach of the Editors' Code of Practice. If the article remains online un-amended, the full adjudication (including the headline) should appear below the headline.

27. The terms of the adjudication for publication are as follows:

A woman complained to the Independent Press Standards Organisation that The Times breached Clause 2 (Privacy) in an article headlined "Is the war of Christ Church v the dean at an endgame?", published on 16 December 2020.

The article reported quotes from confidential documents regarding the woman's comments she had made about her reaction to an alleged assault against her.

The complainant said the article intruded into her privacy as it quoted from highly confidential documents which were not available to the public. She said that she had a reasonable expectation of privacy in relation to the information contained in the documents, including the comments she had made about her reaction to the incident, which had been quoted by the publication.

IPSO found that, whilst not named in the article, it was accepted that the complainant's identity was known to a number of people for reasons unconnected to the press coverage the case had attracted. The published information came from confidential reports, and included the complainant's comments on her emotional reaction to the alleged assault. Where these comments related to the complainant's personal emotions and had been made during confidential proceedings, IPSO found that she had a reasonable expectation of privacy in respect of this information. The disclosure of this personal account to those able to identify her, with whom the complainant might not necessarily have chosen to share her personal feelings about the alleged assault, represented an unjustified intrusion into her private life. IPSO did not consider that there was an overriding public interest in the publication of this information which would justify the intrusion. Publication of the information raised a breach of Clause 2.

Date complaint received: 11/05/2021

Date complaint concluded by IPSO: 11/10/2021

Appendix C

Decision of the Complaints Committee – 04917-21 Akhtar v The Sunday Times

Summary of Complaint

1. Adeel Akhtar complained to the Independent Press Standards Organisation that The Sunday Times breached Clause 2 (Privacy) and Clause 4 (Intrusion into grief or shock) of the Editors' Code of Practice in an article headlined "'MINUTES FROM DISASTER'", published on 16 May 2021.

2. The headline was followed by the sub-heading "Smoke-filled stairwells, faulty fire doors and raging flames: how a fire in a block with £3m flats was almost another Grenfell tragedy" and reported that key safety measures had failed when a fire broke out at New Providence Wharf – a high-rise residential block covered externally with aluminium composite material (ACM) cladding, the same material used on Grenfell Tower. The article, which appeared across pages 8 and 9, stated that the fire was "believed to have started as an electrical fault in the fuse box of [flat number] on the eighth floor of block D" and included a chronology of the fire alongside analysis by a fire safety expert and the accounts of residents. It reported that the London Fire Brigade (LFB) was still in the process of investigating the fire.

3. The article was accompanied by six photographs: two showed the exterior of the building and the extent of the fire, two showed images of affected residents, and two showed the corridor of the eighth floor "before" and "after" the fire. These photographs accompanied an infographic which detailed the materials used on the building's exterior and provided a floorplan of the eighth floor, identifying where the fire had started.

4. The article also appeared online under the headline "New Providence Wharf fire was 'minutes' away from being another Grenfell Tower" and included a photograph which had not been published in the print article, showing the interior of a room "after the blaze", with burnt debris covering the floor and a layer of soot covering the walls.

5. The complainant said that the article breached Clause 2 (Privacy), because it identified his flat as being the source of the fire. He said that this was private information and as such should not have been published: no other coverage of the fire had identified the flat number where the fire had started. Furthermore, he said that the photograph captioned "after the blaze" showed the interior of his home and was taken without his consent or permission. He said that this photograph could not have been taken without entering his apartment and consequently must have been taken by an individual trespassing on his property. He added that the publication of the article was insensitive and caused him

distress as well as reputational damage, in breach of Clause 4 (Intrusion into grief or shock).

6. The newspaper did not accept a breach of the Editors' Code. It denied that the article represented an intrusion into the complainant's private life, and said that the complainant was not named in the piece and nor could he be identified by any of the information included in the article as the owner of the flat. It said that the number of the flat, which was suspected to be where, or near to where, the fire started, was not private information, and could be identified by the images of the fire which had been published in conjunction with the publicly available plans of the development. Furthermore, the number of the flat where the fire had started was known to the many hundreds of residents in the development.

7. In regard to the photograph under complaint, the newspaper said this was not identified in the article as the flat where the fire was suspected to have started, adding that more than one apartment was damaged in the incident. In any event, it said that the disputed photograph did not reveal any detailed information about the complainant or his private life.

8. Furthermore, the newspaper denied any intrusion into the complainant's property and maintained that the disputed photograph had been taken from the corridor by an individual with authorisation to be in this section of the building. It noted the publicly available floorplan of the building demonstrated that it was possible for the photograph to be captured from this location, rather than from inside the property, as suggested by the complainant. Though it was unable to specify exactly where the photograph had been taken, it provided an uncropped version of the photograph in order to further demonstrate that it had been taken "through an open door" from the corridor. It added that the LFB report into the fire indicated that the flat's door was left open when the occupant had escaped.

9. The newspaper did not accept that the report was insensitive or identified the complainant. As such, it did not consider that the complainant had any standing to complain under Clause 4, and so there was no breach.

10. The newspaper further argued that there was a clear public interest in the article, including the photograph and information under complaint, particularly in the context of the Grenfell Tower fire. It said that the article formed part of the publication's ongoing 'Hidden Housing Scandal' campaign on the developing cladding scandal, arguing that it had a responsibility to ensure that the risks posed to residents were fully investigated, publicised, and those responsible held to account. In this context, the newspaper said its senior editorial team had considered, prior to publication, that the article and the disputed image was proportionate to, and serving of, the public interest.

11. Notwithstanding this position, upon receipt of the complaint, the newspaper removed the disputed photograph from the online article as a gesture of goodwill.

Relevant Code Provisions

Clause 2 (Privacy)*

- (i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications.
- (ii) Editors will be expected to justify intrusions into any individual's private life without consent. In considering an individual's reasonable expectation of privacy, account will be taken of the complainant's own public disclosures of information and the extent to which the material complained about is already in the public domain or will become so.
- (iii) It is unacceptable to photograph individuals, without their consent, in public or private places where there is a reasonable expectation of privacy

Clause 4 (Intrusion into grief or shock)

In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. These provisions should not restrict the right to report legal proceedings.

The Public Interest

There may be exceptions to the clauses marked * where they can be demonstrated to be in the public interest. The public interest includes, but is not confined to:

- Detecting or exposing crime, or the threat of crime, or serious impropriety.
- Protecting public health or safety.
- Protecting the public from being misled by an action or statement of an individual or organisation.
- Disclosing a person or organisation's failure or likely failure to comply with any obligation to which they are subject.
- Disclosing a miscarriage of justice.
- Raising or contributing to a matter of public debate, including serious cases of impropriety, unethical conduct or incompetence concerning the public.
- Disclosing concealment, or likely concealment, of any of the above.

There is a public interest in freedom of expression itself.

The regulator will consider the extent to which material is already in the public domain or will become so.

Editors invoking the public interest will need to demonstrate that they reasonably believed publication - or journalistic activity taken with a view to publication – would both serve, and be proportionate to, the public interest and explain how they reached that decision at the time

Findings of the Committee

12. The Committee recognised the distress the fire had caused the complainant and the other residents of New Province Wharf.

13. Clause 2 (Privacy) states that everyone is entitled to respect for their private and family life, including their home. The complaint centred on two key concerns: that an individual had entered the complainant's flat without consent in order to take the photograph of the interior of his home, and that the publication of this photograph along with the address of his flat represented an intrusion into the complainant's private life.

14. The Committee noted that the complainant and the publication held conflicting positions as to whether the photograph had been captured from inside the flat or through an open doorway from the corridor. The primary question for the Committee, however, was not the precise location from which the photograph had been taken, but rather whether any intrusion had taken place into the complainant's privacy through its taking and publication. The Committee was not in a position to determine categorically the location in which the photograph had been taken, and – because of the publication's obligation to protect the confidentiality of its source – it did not have full details of the circumstances in which it had been taken. Notwithstanding this, the Committee made clear that it did not accept the newspaper's position in relation to this point.

15. Nonetheless, the Committee concluded that the taking and publication of the photograph did not constitute an unjustified intrusion into the complainant's privacy, for the following reasons. First, given the extent of the fire damage, the photograph of the room revealed very limited detail about the interior of the flat and the nature of the home, beyond the scale of the damage, which included the destruction of internal walls, appliances, and other possessions. Second, the article did not name the complainant, nor did it reveal any particular information about the complainant's private life. On this basis, the Committee did not consider that the publication of the photograph represented an intrusion into the complainant's private life. In any event, the Committee noted the considerable public interest in demonstrating the extent and impact of the fire. There was no breach of Clause 2.

16. The Committee next considered whether the complainant had a reasonable expectation of privacy in relation to his address being reported as the source of

the fire. The complainant was not identified in the article as the owner of the apartment where the fire had started, so only those already aware of his address would be in a position to associate the complainant with the property. Furthermore, the fire had affected many people within the building so the source of that fire could not be considered information over which the complainant had a reasonable expectation of privacy. The publication of the flat number in these circumstances did not represent an intrusion into the complainant's private life. There was no breach of Clause 2.

17. The Committee acknowledged the distress that the publication of the article had caused the complainant. However, Clause 4 relates to whether the publication of information had been handled sensitively; it does not seek to prevent reporting of distressing events. The fire, which had affected multiple flats within the building, was clearly a matter of public interest, relating, as it did, to questions of public health and safety, and contributed to the ongoing public debate surrounding the safety of apartment blocks in the wake of the Grenfell Tower fire. The newspaper was fully entitled to report the incident and, while the article under complaint covered the details extensively, it did not do so in an insensitive manner. There was no breach of Clause 4.

Conclusions

18. The complaint was not upheld.

Remedial Action Required

19. N/A

Date complaint received: 15/05/2021

Date complaint concluded by IPSO: 03/11/2021

APPENDIX A

Paper No.	File Number	Name v Publication
2244	03232-21	Henson v examinerlive.co.uk
2246	02118-21	Keen v That's Life
2253	03143-21	Janes v <u>thenational.scot</u>
2261	04617-21	Hetherington v Scottish Sunday Express
2263		Request for review
2196	01984- 21/01985- 21	A woman v Mail Online/metro.co.uk
2230	01986-21	A woman v The Daily Telegraph
2269		Request for review
2241	02739-21	<u>Matinvesi</u> v Mail Online
2247	04355-21	Allman v liverpoolecho.co.uk
2251	02925-21	A woman v Metro
2258	04588-21	Various v The Times
2265	04489-21	<u>Symmonds</u> v Swindon Advertiser
2267	05769-21	Lewis v <u>essexlive.news</u>
2274		Request for review
2282		Request for review
2254	03134-21	Price v Hereford Times
2255	04932-21	Various v Daily Express
2285		Request for review