

MINUTES of the COMPLAINTS COMMITTEE MEETING  
Tuesday 15<sup>th</sup> December at 10.30am  
Via Video Conference Call

Present                    Lord Edward Faulks (Chairman)  
                                Richard Best  
                                Nazir Afzal (Items 1- 8)  
                                Andrew Brennan  
                                David Hutton  
                                Janette Harkess  
                                Asmita Naik  
                                Miranda Winram  
                                Mark Payton  
                                Andrew Pettie  
                                Peter Wright

In attendance:         Charlotte Dewar, Chief Executive  
                                Michelle Kuhler, PA and minute taker  
                                Lauren Sloan, Head of Complaints

Also present: Members of the Executive:

Katrina Bell  
Elizabeth Cobbe  
Rosemary Douce  
Alice Gould  
Sebastian Harwood  
Natalie Johnson  
Tonia Milton  
Todd Stammers

Observers:             Jonathan Grun, Editors' Code of Practice Committee  
                                Sarah DeGay, Editors' Code of Practice Committee

1. Apologies for Absence and Welcomes

Apologies were received from Helyn Mensah. The Chairman welcomed, Jonathan Grun and Sarah DeGay to the meeting.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes of the Previous Meeting

The Committee approved the minutes of the meeting held on 10 November.

4. Matters arising

There were no matters arising.

5. Update by the Chairman – oral

The Chairman informed the Committee that Richard Best will be leaving the Committee early next year. IPSO will be looking for a replacement Deputy Chair for the Complaint Committee.

The Chairman finished by praising and saying how proud he is of what IPSO has achieved throughout this very difficult year.

6. Complaints update by Head of Complaints

The Head of Complaints informed the Committee that the Complaint report that is taken to the Board for their information. IPSO has seen a decrease in the volumes of complaints being received, that has enabled the team to get on with more investigations. An interesting complaint is a Clause 9, and two interesting anonymous complaints, regarding accuracy and privacy of family members. IPSO has had two multiples this week, one regarding covid and teachers the other regarding Brexit, these will come the Committees way in the New Year.

7. Complaint 12001-20 A man v Thurrock.nub.news

The Committee discussed the complaint and that the complaint should be upheld  
**A copy of the ruling appears in Appendix A.**

8. Complaint 12118-20 Wadeson v oxfordmail.co.uk

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

9. Complaint 12214-20 Salmond v Scotland on Sunday

The Committee discussed the complaint and ruled that the complaint should be upheld. **A copy of the ruling appears in Appendix C.**

10. Complaint 02355-20 Sanders v plymouthherald.co.uk

The Committee discussed the complaint and ruled that the complaint should not be taken forward by IPSO.

11. Complaints not adjudicated at a Complaints Committee meeting

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

12. Any other business

A Pre Complaint Committee meeting was agreed for January 26<sup>th</sup> at 9.30am. Richard Best will send out an agenda in due course.

13. Date of next meeting

The date of the next meeting was confirmed as 26<sup>th</sup> January 2020.

The meeting ended 12.55pm

## Appendix A

### Decision of the Complaints Committee 12001-20 A man v Thurrock.nub.news

#### Summary of complaint

1. A man complained to the Independent Press Standards Organisation that Thurrock.nub.news breached Clause 1 (Accuracy) and Clause 2 (Privacy) of the Editors' Code of Practice in an article headlined "Concern grows following adverse impact of refugees in borough - amid residents' fears that more will be coming", published on 11 April 2020.
2. The article reported on an estate which was being used to house refugees. The article reported various comments expressed by area residents including that "some of [the refugees] have been pictured gathering in numbers and smoking from hookahs, with strong smells of cannabis floating across the area". The article also included an image of two men, sitting outside smoking from a shisha pipe, which was captioned "The refugees have been pictured by their neighbours who complain the smell of drugs is drifting towards their homes".
3. The complainant, one of the men pictured, said that the article was a breach of his right to privacy under Clause 2. He said that the image showed him in the back garden of his home, where he had a reasonable expectation of privacy, and had been taken and published without his knowledge or consent. He noted that his back garden was private and could not be viewed from a public space as it was surrounded by high fences. The only way the image could have been taken was from inside one of his neighbours' houses. He said that the image showed him smoking shisha, which he considered to be a private activity, in particular because of his background and culture. He noted that the image clearly identified him, and that people had recognised him from the image. The complainant provided images of his back garden to IPSO, which he said demonstrated that he had been in the back garden at the time the photograph had been taken. He also provided some selfies which he said had been taken on the same day in the back garden, which showed the two men sitting in the same position and wearing the same clothing as appeared in the published image.
4. The complainant said further that the publication of the photograph in the context of the article had revealed his refugee status, which was private information. The publication of the photograph which identified him as a refugee, together with the name of the street on which he was living, put him at risk from those he was seeking refuge from.
5. The complainant also said that the article was in breach of Clause 1. He said that it was misleading to show a picture of him smoking tobacco from a shisha pipe, a legal substance, in conjunction with the caption "The refugees have been pictured by their neighbours who complain the smell of drugs is drifting towards their homes". He said the term "drug" gave the misleading impression that he was smoking an illegal substance, particularly when the caption was read in combination with the sentence in the article which claimed that refugees had been "pictured... smoking from hookahs, with strong smells of cannabis floating across the area".
6. The publication did not accept a breach of the Code. It did not accept that the image showed the complainant in his back garden. It supplied IPSO with images of the front gardens of several of the houses on the estate, which it said looked similar to the background of the image in the article. It also said that the image had been circulated on social media on three Facebook groups for the town, and others for the Borough of Thurrock, although it was unable to provide evidence of this or to give an estimate of how many people had seen the image. Initially the publication said that it had asked the poster of the image on Facebook whether it could publish it, and later said that the image had been sent directly to the newspaper by a disgruntled member of the public. It said that it had decided not to anonymise the image as it believed the image had been taken in a public place and had been published elsewhere.

7. The publication further said that the complainant's refugee status was not private, as the people who lived locally would recognise him as a refugee due to his presence in the area.

8. Whilst maintaining that publication of the image or revealing that the complainant was a refugee was not a breach of Clause 2, the publication argued that, in any event, there was a public interest in publication as it contributed to the debate regarding the refugees living on the estate. Including the complainant's likeness, which had been published previously elsewhere, added reality to the story. The publication said the story was in the public interest as there had been serious impropriety on the estate in the form of anti-social behaviour. It also said the use of illegal drugs on the estate in general, although it did not suggest the complainant had used illegal drugs, was a matter of public health and safety. It said that it was right and proper for the public to be made aware of the refugees' situation and their actions on the estate.

9. Although the publication did not accept that the publication of the image had intruded into the complainant's private life, during direct correspondence with the complainant, prior to IPSO's investigation, it anonymised the image.

10. The publication said it was not inaccurate in breach of Clause 1 to call shisha "a drug" because the term "drug" is subjective and shisha was bad for health and habit forming. It noted that tobacco was listed as a drug on the UK government's anti-drug campaigning website. It said that it had not directly suggested that the complainant had smoked cannabis, although it accepted that some readers may have understood this to be the case.

11. Whilst the publication did not accept that the Code had been breached, prior to IPSO's investigation it offered to publish a further story with input from the complainant and an apology. During IPSO's investigation it offered to publish the following statement:

A recent story published by Thurrock Nub News on 11 April this year reflected the concerns of residents in Chadwell St Mary about anti-social activity that was taking place at premises on the new Oak Road estate leased by the Home Office to house refugees. As part of that report we published a picture, widely circulated at the time on social media, of two residents on the estate smoking a hookah. Our story reported that there has been drug use at houses on Oak Road, particularly the smoking of cannabis. We are assured by the men pictured in the image that the substance they were smoking is not a drug and they were partaking in legitimate activity in an area they regarded as private. Thurrock Nub News accepts that this article has caused personal distress to one of the men pictured, for which we apologise and we are happy to publish his statement that he was only smoking shisha and the statement: "I never used drugs in all my life".

### Relevant Code Provisions

#### Clause 1 (Accuracy)

i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.

ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and — where appropriate — an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

iii) A fair opportunity to reply to significant inaccuracies should be given, when reasonably called for.

iv) The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.

## 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.

### \*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.

### Findings of the Committee

12. Clause 2 states that everyone is entitled to respect for their private life, home and health and that it is unacceptable to photograph individuals without their consent, where they have a reasonable expectation of privacy. There was a dispute between the parties as to the complainant's location at the time he was photographed. The complainant had provided a number of photographs to the Committee to support his position that he had been sitting in the back garden of his home. The publication had also provided a number of photographs of the front gardens of the houses on the estate in which the complainant lived. Having considered the evidence, the Committee considered that it was more likely than not that the complainant had been in the back garden of his home at the time the photograph had been taken. The back garden was a private space which could not be seen from a public place and the complainant had been enjoying his private life with a friend at the time the photograph was taken. Further, the complainant had not consented to his photograph being taken or published. The complainant had a reasonable expectation of privacy in these circumstances and the publication of the photograph was intrusive.

While the publication had said the image had previously been published on social media, it had been unable to demonstrate that the image had been established in the public domain to an extent that the complainant no longer had a reasonable expectation of privacy. The publication of the photograph intruded into the complainant's private life in breach of Clause 2.

13. The caption of the photograph revealed the complainant's refugee status without his consent. In general, an individual's immigration status is personal, sensitive information which relates to the individual's private and family life. The Committee rejected the publication's argument that the complainant did not retain a reasonable expectation of privacy in relation to this information because his refugee status would be known locally due to the location of his home. The publication had revealed this information to a far larger number of people as compared to the number who otherwise had knowledge of the complainant's status based on his housing arrangements. Publishing this information in these circumstances, without the complainant's consent, constituted an unjustified intrusion into his private life.

14. The publication had also argued that the use of the image, and the revelation of the complainant's refugee status, was in the public interest, negating any breach of Clause 2. Whilst the Committee accepted that the article itself contributed to a debate on a matter of public interest, it noted that the image of the complainant, and the revelation of his refugee status in itself did not add to the public debate. The publication had also said that the use of the image could be justified as it helped protect public health and safety, which was threatened by the use of illegal drugs on the estate. However, the publication had not argued that the complainant was pictured using illegal drugs and there was no public interest in publishing the image on this ground. The publication of the photograph and the complainant's immigration status did not fall within the public interest exception of the Code.

15. The image used in the article featured the complainant smoking a hookah or shisha pipe, beneath which was the caption "The refugees have been pictured by their neighbours who complain the smell of drugs is drifting towards their homes", and the article then went on to refer to smells of cannabis. The complainant said that this suggested wrongly that he was smoking cannabis. While the Committee acknowledged the publication's argument that shisha is a "drug" in a general sense, where the article had referred to complaints about smells of cannabis (and had not referred to shisha or any other legal drugs), the caption's reference to the "smell of drugs... drifting towards ... homes" suggested that the photograph showed the activity referenced in the article: cannabis use. The publication acknowledged that it had no evidence which suggested that the complainant was smoking cannabis, or any other illegal drug. There was a breach of Clause 1(i).

16. The misleading impression given by the article that the complainant was pictured smoking cannabis was significant as it suggested that he had engaged in illegal activity, which was not the case. It required correction under the terms of Clause 1 (ii). The publication had offered to publish a correction, but the proposed wording simply put the complainant's position on record. The wording did not identify the misleading information that was being corrected, namely that the complainant had not been smoking illegal drugs in the photograph. On this basis, the wording proposed by the publication was not sufficient and there was a breach of Clause 1(ii).

### Conclusions

17. The complaint was upheld.

### Remedial Action Required

18. Having upheld the complaint, the Committee considered what remedial action should be required. In circumstances where the newspaper had breached Clause 2, in addition to Clause 1, the publication of an adjudication was appropriate.

19. The Committee considered the placement of this adjudication. The adjudication should be published online, with a link to it (including the headline) being published on the top 50% of the publication's homepage for 24 hours; it should then be archived in the usual way. The headline to the adjudication should make clear that IPSO has upheld the complaint, give the title of the publication and refer to the complaint's subject matter. The headline must be agreed with IPSO in advance. 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..

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

A man complained to the Independent Press Standards Organisation that Thurrock.nub.news breached Clause 1 (Accuracy) and Clause 2 (Privacy) of the Editors' Code of Practice in an article headlined "Concern grows following adverse impact of refugees in borough - amid residents' fears that more will be coming", published on 11 April 2020.

The article reported on an estate which was being used to house refugees. The article reported various comments expressed by area residents including that "some of [the refugees] have been pictured gathering in numbers and smoking from hookahs, with strong smells of cannabis floating across the area". The article also included an image of two men, sitting outside smoking from a shisha pipe, which was captioned "The refugees have been pictured by their neighbours who complain the smell of drugs is drifting towards their homes".

The complainant was one of the men pictured. He said that the image showed him in the back garden of his home, where he had a reasonable expectation of privacy, and had been taken and published without his knowledge or consent. He noted that the image clearly identified him, and that people had recognised him from the image. He also said that the publication of the photograph in the context of the article had revealed his refugee status, which was private information. The publication of the photograph which identified him as a refugee, along with the name of the street he was living on, put him at risk from those he was seeking refuge from. The complainant also said that the article was inaccurate as it contained a picture of him smoking tobacco from a shisha pipe, a legal substance, but described this as a "drug" and further references to "cannabis" in the article suggested he had been smoking illegal drugs. The publication did not accept that the photograph of the complainant had been taken whilst he was in the back garden of his home, and also said that the article did not intrude into the complainant's private life because it was published in the public interest as it helped protect public health and safety, which was threatened by the use of illegal drugs on the estate. However, it accepted both that it did not know what the complainant had been smoking in the photograph and that the article could inaccurately imply that the complainant was pictured smoking an illegal substance.

IPSO ruled that, in all the circumstances, the complainant had a reasonable expectation of privacy both in relation to the photograph and his status as a refugee, which is information which related to his private and family life. Publishing the photograph and the information regarding his refugee status without his consent constituted an unjustified intrusion into his private life. IPSO did not accept that publication was in the public interest. IPSO found that the article breached Clause 2.



The publication had not offered an adequate correction which made clear that the complainant had not been smoking an illegal drug in the photograph. IPSO found that the article also breached Clause 1.

Date complaint received: 20/07/2020

Date complaint concluded by IPSO: 17/02/2021

## Appendix B

### Decision of the Complaints Committee 12118-20 Wadeson v oxfordmail.co.uk

#### Summary of complaint

1. John Wadeson complained to the Independent Press Standards Organisation that oxfordmail.co.uk breached Clause 1 (Accuracy) of the Editors' Code of Practice in a reader comment published in response to an article headlined "Hundreds of the 'most dangerous' guns owned in Thames Valley", published on 26 July 2020.
2. The comment, which was posted by an anonymous website user in response to the article, stated that knives should be banned in the UK, "[e]specially 'dangerous knives', like the one used by the refugee BLM [Black Lives Matter] supporter, who murdered three and injured three more members of the LGBT community, in a Reading park last month following a BLM rally." The commenter was referring to the stabbings which occurred in Forbury Gardens in Reading on 20 June 2020.
3. The regulation of reader comments on a publication's website falls within IPSO's remit when there is a possible breach of the Editors' Code of Practice, and where it can be shown that the comment has been subject to some level of editorial control either through pre- or post-moderation. The complainant said that the comment fell within IPSO's remit as he had reported the comment to the publication three times, first by using the website's comment reporting function, and then via a Facebook message and an email to the editor. The complainant made these three reports within one day of the comment being published, but had received no response from the publication.
4. On 17 August 2020 IPSO referred the complaint to the newspaper as a potential breach of the Editors' Code. The newspaper did not respond to the complainant during the referral period and IPSO notified the publication of its intention to open an investigation on 29 September 2020. That day the publication removed the comment and banned the commenter, and wrote to IPSO to inform it of this.
5. The newspaper said that the comment did not fall within IPSO's remit, as it had not been aware of the comment under complaint until 29 September, at which time it removed the comment and banned the commenter. It said that it did not pre-moderate comments, as it did not have the staff capacity to do so and that, on this occasion, the comment had slipped through the net and had not been dealt with as promptly as it usually would have, due to staffing pressures brought about by the Covid-19 pandemic. As such, it did not post-moderate the comment until 29 September.
6. The complainant said that the comment was inaccurate in breach of Clause 1: the Police had released a statement making clear that the stabbing was not related to the BLM rally which had occurred in the same park earlier that day, and there was no indication that either the attacker or the incident was linked to the BLM movement or organisation.

7. The publication denied a breach of Clause 1 in relation to the comment. It said that the comment was clearly identified as being the view of a reader; there was no suggestion that it had been posted by the publication, or that the publication endorsed the views expressed in the comment. In addition, the website's terms and conditions made clear that commenters, and not the publication, were responsible for the content they posted. Website users would, therefore, be aware that the comment was the opinion of the commenter, and not necessarily a verified statement of fact. The publication also expressed concern about the effect that printing a correction may have on the right to freedom of expression, both for the newspaper and the commenter. It said that, should an individual disagree with the comment, they could choose to exercise their own right to freedom of expression and reply to the comment, setting out their own views. The publication also said that it did not consider the comment under complaint to be inaccurate; while it noted that Police had released a statement which said that the stabbings were not linked to BLM, it did not agree that the police were in a position to make a statement of fact regarding the attacker's motivations and political affiliations, and that neither the original commenter, the complainant, nor the Police could say for certain whether the attacker was a "BLM supporter" until the matter was discussed and adjudicated by the courts.

8. The publication said that it had not been aware of the comment due to staffing issues brought on by the coronavirus pandemic, and said that once it became aware of the comment on 29 September 2020, it had removed it and banned the user, and considered that this action was sufficient to resolve any concerns the complainant may have had regarding the comment's accuracy.

9. The complainant said that the publication had been made aware of the comment through numerous channels from his first contact on 27 July but had not taken any action until 29 September. The complainant noted that the publication had the ability to disable comments should it wish and had previously done so. He considered that, if it was unable to effectively post-moderate comments it should remove the comment function from its website. The complainant said that he had been left unable to respond directly to the disputed comment, as sometime after making his complaint to IPSO he had been blocked from commenting on the website. He also expressed concern that the publication would discount a statement made by the Police, in which they stated that there was no link between the stabbings and the BLM movement.

10. The complainant said that only a full retraction of the comment would be sufficient to address his concerns, given that it had remained online for two months after he made his initial complaint to the newspaper.

### **Relevant Code Provisions**

#### Clause 1 (Accuracy)

i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.

ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and — where appropriate — an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

iv) The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.

### Findings of the Committee

11. The Committee first considered whether the comment under complaint fell within IPSO's remit. IPSO's regulations make clear that content on websites operated by regulated publications falls within IPSO's remit if it has been subject to editorial control. In the case of user-generated content (such as comments), this generally means that there has been some form of review or moderation on the part of the publication, which includes a decision to continue to publish material that is the subject of a complaint under the Editors' Code.

12. The complainant had attempted to make the publication aware of his concerns regarding the comment under complaint in three different ways: he used the comment reporting system on the website to flag the comment; sent the publication a direct message via its social media page; and emailed the editor. The complainant's concerns clearly related to the Editors' Code: the accuracy of the claim made by the commenter. IPSO had also made the publication aware of the complainant's concerns via an email sent on 17 August, which included a copy of the complainant's complaint identifying an alleged breach of the Editors' Code. The publication acknowledged receipt of this email on 20 August. Nevertheless, the comment remained online until 29 September, over two months after its initial publication on 26 July, and over a month after IPSO had made the publication aware of the complainant's concerns. As such, the Committee found that, by late August at the latest, the publication had received adequate notice the comment under complaint raised a potential breach of the Editors' Code, and it was given the opportunity to post-moderate the comment. As such, from this point the Committee considered the comment to be subject to editorial control and therefore the complaint fell within IPSO's remit.

13. As the Committee was satisfied that the comment fell within IPSO's remit, it turned next to the alleged breach of Clause 1. The complainant had supplied a copy of a police press release stating that the stabbing had no connection to the protest, which the publication had not disputed. While the comment itself was clearly distinguished as a reader comment – it appeared underneath the article in the reader comments section, and was attributed to a commenter – the alleged inaccuracy, that the Forbury Park stabbing was committed by a "refugee BLM supporter", was a statement of fact and not presented as the opinion of the commenter. This meant that the protection afforded by Clause 1 (iv) – which makes clear that publications may publish comment and conjecture, provided it is clearly distinguished from fact – did not apply.

14. This complaint raised the issue of how the Committee applies the terms of Clause 1 (i) - which requires that the Press take care not to publish inaccurate, misleading, or distorted information - to user-generated content. Given that the comment was not pre-moderated, the requirement for the publication to take care did not begin from the date of first publication. Rather, the Committee found that the requirement to take care over the accuracy of a reader comment began from when the publication was made aware of the alleged breach and was given the opportunity to post-moderate the comment. As noted above, the complainant had contacted the publication within a day of the publication of the article and the publication had acknowledged receipt of the email from IPSO making it aware of the alleged breach of Clause 1 on 20 August. The requirement to take care over the continued publication of the comment therefore arose, at the latest, from 20 August. As the comment remained online for a month after this point without the publication reviewing the comment, the Committee found that the publication had not taken care over the accuracy of the published information. As such, the Committee found that publication of the comment breached Clause 1 (i).

15. Having found a breach of Clause 1 (i), the Committee then considered whether the statement represented a significant inaccuracy in need of correction under the terms of Clause 1(ii), and whether the steps the publication had already taken were sufficient to avoid a breach of Clause 1 (ii). The inaccuracy related to a serious crime which led to the death of 3 individuals, and the attribution of a motive to the perpetrator of the crime. It was an event which had an impact not only locally, but nationwide. By linking the crime to BLM when police had made an explicit statement to the contrary, the Committee found that the breach represented a significant inaccuracy, and as such was in need of correction as required by the terms of Clause 1 (ii).

16. Clause 1 (ii) requires that a significant inaccuracy, misleading statement, or distorted information must be corrected promptly and with due prominence, and — where appropriate — an apology published. The Committee noted that the requirement to correct can be satisfied in different ways, depending on the nature of the material under complaint; in a case where the inaccuracy has appeared in user-generated content, it may not be appropriate or proportionate to publish, for example, a correction in a traditional corrections column.

17. The publication had, over two months after the publication of the comment, removed it and banned the user. The publication also removed all comments on the article. The Committee agreed that user comments which are found to be inaccurate in breach of Clause 1 may be corrected other than by the publication of a traditional correction. However, the Committee found that the action taken by the publication did not satisfy the requirements of Clause 1 (ii); the inaccuracy had not been corrected as readers were not informed of the reasons why the comment had been removed. Clause 1 (ii) also requires that any inaccuracy is corrected promptly, and the Committee did not find that the removal of the comment, over a month after the publication had been made aware of the potential breach of the Editors' Code, represented prompt action. As such, the Committee ruled that Clause 1 (ii) had been breached.

### **Conclusions**

18. The complaint was upheld.

### **Remedial Action Required**

19. Having upheld the complaint, the Committee considered what remedial action should be required. In circumstances where the Committee establishes a breach of the Editors' Code, it can require the publication of a correction and/or adjudication, the nature, extent, and placement of which is determined by IPSO.

20. On receipt of the complaint the publication had not taken steps to fulfil its obligation under Clause 1 (i) to take care not to publish inaccurate information; nor had it corrected the significant inaccuracy. The Committee also expressed concern that the publication did not appear to be aware of the role IPSO plays in ruling and adjudicating on potential breaches of the Editors' Code of Practice arising from user-generated content such as reader comments. Given the circumstances, the Committee concluded that the publication of an adjudication would be an appropriate remedy to the breaches it had identified.

21. The Committee considered the placement of this adjudication. The original comment was posted in response to the online article headlined “Hundreds of the 'most dangerous' guns owned in Thames Valley.” The Committee therefore required that the adjudication and adjudication headline should be posted underneath the original article. The adjudication should appear as its own separate article. This would be required to appear on the top half of publication website’s home page for at least 24 hours; it should then be archived in the usual way. The headline of the adjudication should make clear that IPSO has upheld the complaint, give the title of the publication and refer to the complaint’s subject matter. The headline must be agreed with IPSO in advance. A link to the adjudication, along with the headline of the adjudication, should also be posted beneath the original article.

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

Following a comment posted in response to an article headlined “Hundreds of the 'most dangerous' guns owned in Thames Valley”, published on 26 July 2020, John Wadeson complained to the Independent Press Standards Organisation that the publication had breached Clause 1 (Accuracy) of the Editors’ Code of Practice. IPSO upheld this complaint and has required oxfordmail.co.uk to publish this decision as a remedy to the breach.

The comment, which was posted by an anonymous website user in response to the article, stated that knives should be banned in the UK, “[e]specially 'dangerous knives', like the one used by the refugee BLM [Black Lives Matter] supporter, who murdered three and injured three more members of the LGBT community, in a Reading park last month following a BLM rally.” The commenter was referring to the stabbings which occurred in Forbury Gardens in Reading on 20 June 2020.

The complainant said that the comment was inaccurate as the police had released a statement making clear that the stabbing was not related to the BLM rally which had occurred in the same park earlier that day, and there was no indication that either the attacker or the incident was linked to the BLM movement or organisation.

The publication said that the comment was clearly distinguished as a reader comment; there was no suggestion that it had been posted by the publication, or that the publication endorsed the views expressed in the comment. Website users would, therefore, be aware that the comment was the opinion of the commenter, and not necessarily a verified statement of fact. The publication also said that it did not consider the comment under complaint to be inaccurate; while it noted that Police had released a statement which said that the stabbings were not linked to BLM, it did not agree that the police were in a position to make a statement of fact regarding the attacker’s motivations and political affiliations, and that neither the original commenter, the complainant, nor the Police could say for certain whether the attacker was a “BLM supporter” until the matter was discussed and adjudicated by the courts.

While the publication did not accept that the Code had been breached, it removed the comment under complaint, banned the user, and turned off the comments function on the article. It took these actions two months after the comment’s publication, and one month after IPSO made the publication aware that the complainant had complained about the comment.

IPSO found that the publication had not taken care over the accuracy of the comment, although it had been given sufficient notice that the comment may raise a possible breach of Clause 1. The police had released a statement which made clear that the stabbing had no connection to the BLM movement or organisation, and the publication had supplied no evidence which refuted the police's statement. As the comment remained online for a month after the latest point where the publication should have been aware of its existence – after IPSO contacted it to inform it that the comment may breach Clause 1 - the Committee found that the publication had not taken care over the accuracy of the published information. The inaccuracy related to a serious crime which led to the death of 3 individuals, and the attribution of a motive to the perpetrator of the crime. It was an event which had an impact not only locally, but nationwide. By linking the crime to BLM when police had had made an explicit statement to the contrary, the Committee found that the breach represented a significant inaccuracy. In addition, the removal of the comment under complaint and the banning of the user did not represent a correction of the significantly inaccurate information.

IPSO found that the publication failed to take care of the accuracy of a reader comment after it was brought to its attention that the comment may be inaccurate. For this reason, the publication breached Clause 1.

Date complaint received: 27/07/2020

Date complaint concluded by IPSO: 05/02/2021

## Appendix C

### Decision of the Complaints Committee 12214-20 Salmond v Scotland on Sunday

#### Summary of complaint

1. Alex Salmond complained to the Independent Press Standards Organisation that Scotland on Sunday breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "'This is not over. Not by a long shot'", published on 5 April 2020.
2. The article reported on Alex Salmond's acquittal following charges of sexual assault. The headline appeared on the front page in quotation marks alongside a photograph of Mr Salmond's face and the statement "Read [journalist's name]'s inside story of the Alex Salmond trial and its impact on his accusers and the SNP". The article, which continued on page 25 reported part of a statement Mr Salmond had given outside of the court: "There is certain evidence I would have liked to have seen led in this trial, but for a variety of reasons, this was not possible... Those facts will see the light." The article went on to comment that "Everyone outside the court understands what this means. It's a threat. It's a promise. He is saying 'This is not over. Not by a long shot'". The article began by describing the scene outside the court following Mr Salmond's acquittal and reported that he thanked "a jury of eight women and five men for acquitting him of 13 charges of sexual assault against nine complainers." The article later reported each of the nine anonymised women's accusations against Mr Salmond. The article also included a black and white image of a woman who looked upset. At the top of page 25 of the printed version, the article was described as having been published in association with another publication and, in a cutaway box embedded in the article, it was explained that the same publication had originally published the article and gave details about how readers could trial this publication.
3. The article had also appeared online on 8 July under the headline "Inside the Alex Salmond trial". It had the opening line: "[journalist's name] was in court every day of the Alex Salmond trial. Here she shares her insights on a landmark case that revolved around power and sex". It was substantially the same as the print article, but did not include the image of Mr Salmond's face, nor did it contain the standalone headline of the wording "This is not over, not by a long shot", although this wording did appear within the article, along with the same comment that "Everyone outside the court understands what this means. It's a threat. It's a promise. He is saying 'This is not over. Not by a long shot'."
4. The complainant said that the article was inaccurate in breach of Clause 1. He said that the front page print headline presented in quotes next to an image of his face inaccurately suggested that he had said "This is not over. Not by a long shot." The complainant supplied the full statement he had given outside the court:

"As many of you will know there is certain evidence I would like to have seen led in this trial but for a variety of reasons we were not able to do so. At some point that information, facts and that evidence will see the light of day but it won't be this day. And it won't be this day for a very good reason. And that is whatever nightmare I've been in over these last two years it is as of nothing compared to the nightmare that every single one of us is currently living through. People are dying, many more are going to die. What we are doing just now and I know you've got a job to do is not safe - I know it is your job but it ain't safe. And my strong, strong advice to you is to go home, those who can, are able to, take care of your families and may God help us all."



The complainant said that the headline, rather than being something he had said, was a quote from the journalist, describing what he had said outside of the court. He said that this was not an accurate characterisation of his statement. The complainant noted that versions of the front page that were posted online had not included quotation marks around the statement.

5. The complainant said that the article had not made clear that it was a comment piece, and instead it was presented as a definitive account of the criminal court proceedings. He said that the article was biased and unbalanced, for example by interviewing the complainers, who were entitled to anonymity, but not including the evidence given by any of the female defence witnesses, or the views of anyone who supported the findings of the court. The complainant also complained that he had not been contacted prior to the article being published.

6. The complainant said it was misleading to publish the allegations made by each of the complainers, without also including an explanation that he had been acquitted and that each allegation had been dismissed by the court.

7. The complainant said that he believed the image of his face in the print version of the article had been deliberately edited in order to emphasise the stubble and grains in his face and to paint him in an unflattering light. He also found the use of the image of the woman looking upset in both versions of the article to be misleading as it was not made clear if it was a stock image or an image of one of the complainers.

8. The complainant also noted that the article had been published originally by another publication, and that it was misleading not to publish further details of the relationship between the two publications.

9. The publication did not accept a breach of the Code. It said that the front page quotation, "This is not over. Not by a long shot" was the publication's summary of the complainant's comments outside court. It said it was a fair reflection of these comments and that the interpretation had been carefully considered by its experienced reporters prior to publication. It noted that the complainant's exact words had been published within the article, and that his words: "There is certain evidence I would have liked to have seen led in this trial, but for a variety of reasons, this was not possible [...] Those facts will see the light" supported the publication's position that the complainant had suggested that the legal proceedings would not be the end of the matter. It said that the removal of the quotation marks from the versions of the front page posted online did not change the meaning of the headline and therefore the quotation marks did not make it significantly misleading.

10. The publication said that the article was clearly an opinion piece from the perspective of one journalist. It said this was made clear in the opening line of the online article, which named the journalist and reported that she would share "her insights on a landmark case". It said she had no obligation to approach the complainant for further comment after hearing all the evidence given by him during the trial and the subsequent public statement he made, and noted that in the statement he gave outside court, he made it clear he did not think it was an appropriate time to discuss the case further. It noted that the article referred to the evidence heard by the court and the jury's conclusion.

11. The publication said that the details of the allegations against the complainant had been included as they were relevant to the issues being explored by the article, particularly those of power and sex. The publication also said that the article made clear that the complainant had been cleared of the charges.

12. The publication said that the image on the front page of the print article had not been manipulated in order to make it less flattering, and that in any event the editing of an image to highlight certain features would not be a failure to report accurately. It also said that the stock image was meant to represent the complainants, whilst also being unidentifiable. The publication said that its inclusion would not mislead readers that it was an image of one of the complainers, in particular as the identity of the woman in the image was obscured.

13. The publication said that the issue regarding payment for the article was not a matter which fell under the Editors' Code of Practice, and that it had no impact on its accuracy.

### **Relevant Code Provisions**

#### Clause 1 (Accuracy)

i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.

ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and — where appropriate — an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

iii) A fair opportunity to reply to significant inaccuracies should be given, when reasonably called for.

iv) The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.

### **Findings of the Committee**

14. The front cover of the print version of the article showed a picture of the complainant's face alongside the following words in inverted commas: "This is not over. Not by a long shot". The publication had said that this was an accurate summary of the statement given by the complainant outside court. Whilst the Committee noted that editors are entitled to abridge quotations, a published quote must accurately represent the words spoken. In this case, the Committee found that, on balance, the publication had gone too far and that the published quote was not an accurate representation of what the complainant had said; the quotation did not reflect the words chosen by the complainant and, as a consequence, gave the impression that the statement made by the complainant outside court was more sinister in nature than was the case. On this basis, the newspaper had failed to take care not to publish misleading information in breach of Clause 1(i). The quotation had appeared on the front page and was significantly misleading because it distorted what the complainant had actually said to appear more menacing. It therefore required correction under Clause 1(ii). No correction was offered, and there was therefore a further breach of Clause 1(ii). The quote did not appear in the online version of the article in the same format, and therefore the breach only pertained to the print version of the article.

15. Both versions of the article had referred to the journalist by name, with the print article being described as her “inside story” and the online article as “her insights” on the trial. Readers would recognise from these descriptions and from the tone and presentation of the piece that it was a feature article, rather than a traditional court report or news report, and that it would reflect the angle, opinions and analysis of its author. The article included an opinion in the stand first of the print article and the first person was frequently used throughout the article. The Committee was therefore satisfied that the publication had clearly distinguished between comment, conjecture and fact from the outset and there was no breach of Clause 1(iv).

16. The complainant had expressed concern that the article had not been balanced, quoting extensively from the complainers in the case but making no reference to the evidence given by the female defence witnesses. The Committee noted that the Editors’ Code does not address issues of bias or balance. It makes clear the press has the right to be partisan, to give its own opinion and to campaign, as long as it takes care not to publish inaccurate, misleading or distorted information, and to distinguish between comment, conjecture and fact. Given the article was clearly presented as a comment piece, the Committee did not consider that this issue raised a breach of Clause 1(iv).

17. The article had included the allegations made by the nine complainers, and it was not in dispute that the complainant had been acquitted of all charges. The article made clear that the complainant had been acquitted “of 13 charges of sexual assault against nine complainers”, which was repeated multiple times in the article. On this basis, readers would be fully aware that the complainant had been acquitted of the allegations, and there was no breach of Clause 1 on this point.

18. The Committee noted there was a disagreement as to whether the photo of the complainant’s face had been edited to present him in an unflattering light and the Committee were not able to make a finding on this point. Newspapers are entitled to undertake some editing of images, provided that it does not amount to distortion of an image leading to inaccurate or misleading information. In this instance, it did not appear that the image had been distorted, and therefore it was not significantly misleading of the complainant’s appearance and there was no breach of the Code. In addition, the use of a stock image of a woman was not misleading as it would be understood to be a stock photo used to illustrate an anonymous, upset woman and not an image of one of the complainers. There was no breach of Clause 1 on these points.

19. Finally, the Committee noted that newspapers are free to campaign and editorialise, and that there is no obligation under Clause 1 of the Editors’ Code to disclose the financing of an article. There was no breach of Clause 1 on this point.

### Conclusions

20. The complaint was upheld in part under Clause 1.

### Remedial Action Required

21. Having upheld a breach of Clause 1, the Committee considered what remedial action should be required. In circumstances where the Committee establishes a breach of the Editors' Code, it can require the publication of a correction and/or an adjudication, the terms and placement of which is determined by IPSO.

22. The Committee found that the publication did not take the necessary care when publishing the quote which appeared on the front page of the print article because it did not represent the words which had been chosen by complainant, which rendered it misleading. The Committee considered that the appropriate remedy was the publication of a correction to put the correct position on record.

23. The Committee then considered the placement of the correction. Whilst the misleading information had appeared on the front page of the print article, as the publication had changed the tone of what the complainant had said, but ultimately the phrase had derived from a statement produced by the complainant, the Committee was satisfied that publication of the correction in the established corrections and clarifications column would represent due prominence. The wording of the correction should be agreed with IPSO in advance and should make clear that it has been published following an upheld ruling by the Independent Press Standards Organisation.

Date complaint received: 04/08/2020

Date complaint concluded by IPSO: 01/02/2020

## Appendix D

Paper No.	File Number	Name v Publication
2031	12218-20	Faulkner v Lancslive
2052	15320-20	Cook v Daily Express
2057		Request for review
2044	12167-20	Yates v lynnnews.co.uk
2049	02678-20	Walker v Daily Mail
2063		Request for review
2053	02577-20	West Midlands Ambulance Service v thesun.co.uk
2054	12226-20	Coutts v Daily Star
2069		Request for review
2043	12005-20	Oliver v The National
2079		Request for review
2059	15664-20	Thompson v Barnsley Chronicle
2084		Roberts v Various
2083		Request for review