

*Correspondence
re asylum
file*



From the Chairman

1 November 2006

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Jean Nick,

Treatment of asylum seekers inquiry

Thank you for inviting us to contribute to the Committee's inquiry.

As you know, the PCC oversees a Code of Practice which acts both as a set of rules for journalists and a framework under which members of the public can complain. In promoting high journalistic standards, the PCC acts both reactively (to specific complaints) and pro-actively, by taking steps to raise awareness of the relevance of the Code in particular areas including asylum issues.

Of course, all this work takes place against the backdrop of the considerable rights to freedom of expression that the press rightly enjoys – which can in turn lead to instances of robust reporting on any number of public policy issues, with which people may disagree.

The Code protects the rights of journalists and newspapers to comment freely and provocatively, if necessary. However, it does contain rules on accuracy, which are as relevant to the reporting of asylum issues as anything else. Clause 1 of the Code says:

- i) the Press must take care not to publish inaccurate, misleading or distorted information, including pictures.

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ii) a significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence, and - where appropriate - an apology published.

iii) the Press, whilst free to be partisan, must distinguish clearly between comment, conjecture and fact.

Clause 12 (Discrimination) is also relevant:

- i) the press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, gender, sexual orientation or to any physical or mental illness or disability;
- ii) details of an individual's race, colour, religion, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story.

Normally the PCC will act when it has the consent of the person concerned to investigate the matter – although third parties such as MPs, friends or support organisations can complain on their behalf.

In taking complaints under these and other clauses of the Code of Practice, the Commission's first aim is to negotiate a suitable remedy to the complaint if it raises a possible breach of the Code. This might be a correction, apology, undertaking about future reporting, follow up piece, right of reply, published letter, private letter of apology from the editor, annotation of internal records and so on.

If that is not possible, the Commission may move to adjudicate the complaint. If the complaint is upheld the publication concerned must publish the ruling promptly and with due prominence. It is therefore a 'name and shame' system which in the first place focuses the minds of editors on the need for compliance with the Code, and, subsequently, on the importance of resolving any disputes should they arise.

I am enclosing two examples of upheld complaints concerning asylum seekers that show that the Commission has been taking a lead on this subject for some years. These rulings – issued in 1999 and 2000 – gave an important signal to the whole of the press. It has not been necessary to issue similar rulings for some time. If you would like more information about our approach to complaints and the sort of matters we handle, our website – www.pcc.org.uk – includes thousands of examples of potential and actual breaches of the Code that the Commission has dealt with over the past ten years.

There are two further areas of relevance. One is the PCC's Guidance Note on Refugees and Asylum Seekers, which I enclose. This both raises awareness about the difference between refugees and asylum seekers, and draws attention to the need for care in the terminology used when describing such groups. In addition to this, we scan the whole of the British press for examples of possible breaches of this Guidance. When this occurs, I write to the editor concerned to remind them of the Note and to ask for confirmation that they accept its terms. This happens several



times a year – more than we would like, but an improvement nonetheless on the situation some years ago.

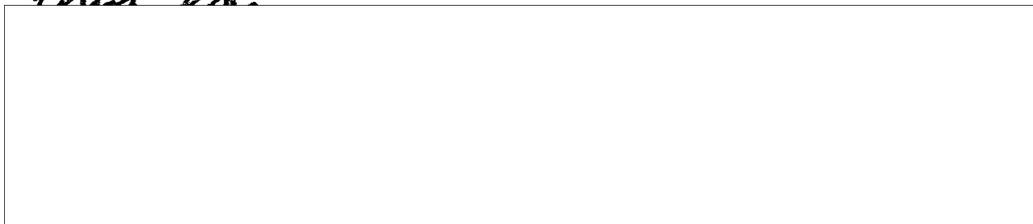
The other area of pro-activity concerns our external relations work. This includes direct dialogue with asylum support groups and invitations to them to attend the numerous events and Open Days that we host, designed to improve understanding about the Commission's work.

There is, of course, always more to do to improve such understanding, and to underline the relevance of the Code of Practice in this area to editors and journalists.

The important thing is that there is a mechanism in place for handling complaints from anybody who is affected by inaccurate or intrusive reporting. Such complaints in turn help to raise standards generally. In the context of your inquiry, therefore, I believe that the current system fairly and effectively balances rights of freedom of expression with other rights such as the right to respect for privacy.

With kind regards.

Yours etc.



Refugees and Asylum Seekers

EMBARGO 23 OCTOBER 2003

REFUGEES AND ASYLUM SEEKERS

Over the past few years, the Commission has received increasing numbers of complaints – principally concerning discrimination – about the coverage of issues relating to refugees and asylum seekers.

The clear majority of complaints – including those stemming from partisan comment and campaigning – raise no breach of the Code of Practice.

However, one discrete group of complaints – which fall under the broad banner of Clause 1 (Accuracy) of the Code – has led to a number of breaches, and the Commission thought it useful to draw this issue to the attention of editors.

Those breaches of the Code that have occurred – in a similar manner to the issue of the reporting of mental health, about which the PCC issued guidance in 1998 – appear largely to have arisen from misunderstandings about terminology.

The Commission is concerned that editors should ensure that their journalists covering these issues are mindful of the problems that can occur and take care to avoid misleading or distorted terminology. By way of example, as an "asylum seeker" is someone currently seeking refugee status or humanitarian protection, there can be no such thing in law as an "illegal asylum seeker". A "refugee" is someone who has fled their country in fear of their life, and may have been granted asylum under the 1951 Refugee Convention or someone who otherwise qualifies for Humanitarian Protection, Discretionary Leave or has been granted Exceptional Leave to Remain in the country. An asylum seeker can only become an "illegal immigrant" if he or she remains in the UK after having failed to respond to a removal notice.

Those groups set up to support and advocate on behalf of refugees and asylum seekers can provide further clarification to journalists if required.

Editors are, of course, already aware that pejorative or irrelevant reference to a person's race, religion, or nationality is already prohibited under Clause 13 (Discrimination) of the Code. Similarly, the Commission – in previous adjudications under Clause 1 (Accuracy) of the Code – has underlined the danger that inaccurate, misleading or distorted reporting may generate an atmosphere of fear and hostility that is not borne out by the facts.

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COMPLAINANT NAME:

Messrs Harman and Harman

CLAUSES NOTED: 1

PUBLICATION: Folkestone Herald

COMPLAINT:

Harman and Harman, Solicitors, of Canterbury, Kent, complained that an article published in the Folkestone Herald on May 20 1999 headlined "The frontline in Folkestone" was misleading in breach of Clause 1 (Accuracy) of the Code of Practice.

The complaint was upheld

The article, accompanied on the front page by a large picture of police in riot gear, reported that police had raided a house and arrested six refugees. It said that local residents had questioned whether asylum seekers in Folkestone were genuine and that local people were being burdened by the presence of refugees.

The complainant said that the use of the photograph was misleading as, by the confession of the newspaper on an inside page, it had been taken at a separate incident and not when police were called to the house. The entire tone of the article was a deliberate attempt to foster prejudice. The complainant further questioned how those quoted in the article could have known whether or not the asylum seekers were 'genuine' or not.

The editor said that a genuine picture of the event would probably have been even more dramatic. He said that he had interviewed residents whose strength of feelings had been reflected in the article. However, he also pointed to previous coverage in the newspaper which was sympathetic to refugees.

DECISION:

Upheld

ADJUDICATION:

It is not the Commission's task to restrict a newspaper's right to comment on an issue of local controversy and concern such as this or to report the views of local people. Although the editor had highlighted other more positive articles written about refugees, the Commission considered that in this case he had, in publishing the photograph prominently with no corrective caption, breached the Code. The impression given on the front page of the newspaper, and only corrected on an inside page, was misleading.

The Commission took the opportunity to remind editors of their responsibilities in covering such topics and of the danger that inaccurate or misleading reporting may generate an atmosphere of fear and hostility which is not borne out by the facts.

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COMPLAINANT NAME:

Messrs Tyndallwoods, on behalf Mr Mohamad Kenewa

CLAUSES NOTED: 1, 3, 4, 6, 10, 12

PUBLICATION: Sunday Mercury

COMPLAINT:

Messrs Tyndallwoods, solicitors, on behalf of their client Mr Mohamad Kenewa, complained that an article published in the Sunday Mercury of 12 March 2000 headlined 'You're a soft touch' was inaccurate, intruded into his family's privacy, that his family had been harassed, his children were approached without proper consent, that misrepresentation was used to obtain information and photographs and that the piece included irrelevant references to his religion in breach of Clauses 1 (Accuracy), 3 (Privacy), 4 (Harassment), 6 (Children), 11 (Misrepresentation) and 13 (Discrimination) of the Code of Practice.

Clauses 1, 3, 4 and 13

The complainant and his family are seeking asylum in the UK. The article and an accompanying editorial reported criticism of the level of benefits they receive from the UK Government. The article highlighted the fact that the complainant, who has two wives and fifteen children, has been given two homes.

The complainant's solicitors said that the headline gave the misleading impression that the complainant had himself said the words 'You're a soft touch'. The article assumed wrongly that the complainant's asylum application is not genuine. The complainant's eldest son, who was quoted in the piece, is not fluent enough in English to have constructed the sentences attributed to him - his views were misrepresented. The journalist gained the family's confidence by telling them he wished to write a positive piece about asylum seekers. The reporter and journalist abused the complainant's hospitality. He and his eldest son asked them to leave and not to return, but they did not leave immediately and they returned later. The story could have been written without referring to the family's nationality or identifying them as Muslim.

The newspaper said that, in the reporter's view, the complainant's son spoke reasonable English. His remarks were only altered grammatically. The headline did not suggest that 'You're a soft touch' was a direct quote - it portrayed the sentiment of the piece as a whole and was a criticism of the Government. The whole question of asylum seekers is a matter of acute public interest. The article sought to address the issue through the individuals, rather than attack the individuals themselves. The newspaper's editorial comment unequivocally pointed the finger of blame at the Government. The family invited the reporter and photographer into their home and spoke openly about their situation. No mention was made of the tone of the piece to be written. The reporter and photographer denied that they were asked to leave the house. Nationality is central to any story about asylum seekers and the complainant's religion had to be mentioned to explain his polygamous marriage. Complaint

Clauses 6 and 11

The complainant said that the journalists were informed of the dangers of publishing a story and identifying the family in view of their vulnerable status. However, the whole family - including the children - were identified by name, nationality, photograph and address. Much of the information was obtained from the children without the consent of an adult. This put the family at risk of racist attack and at risk if they return home. The children were advised not to attend school to avoid a backlash as a result of the article. The photographs of Mr Kenewa and his family were taken in his home and without his consent or knowledge. The photographer knew they did not wish to be photographed.

The newspaper said that although the family did say they did not want any publicity,

DECISION:

Upheld

ADJUDICATION:

The Commission noted that the article concerned a subject which had aroused a high degree of public debate and controversy. The newspaper was entitled to investigate these matters and to seek the comments of adults who are seeking asylum in this country. It appeared that the complainant and his family had at first been happy to speak to the reporter, knowing that he was a journalist and intended to write a piece about them. Although there may have been some difficulties in understanding, the solicitors did not specify any alleged inaccuracies in the quotations. It was clear from the piece that no decision had yet been made regarding their application for asylum. Their quoted comments made clear their reasons for leaving their home country and for coming to the UK. The Commission considered that the headline was clearly intended as an editorial comment and summary of the piece as a whole. It considered that the references to the complainant's nationality and religion were relevant to the subject of the article – they were not prejudicial or pejorative. The complaints under Clauses 1 (Accuracy), 3 (Privacy), 4 (Harassment), 11 (Misrepresentation) and 13 (Discrimination) of the Code of Practice were rejected. The Commission was concerned that the newspaper had obtained information from some of the children about the names and ages of the other children in the family, and that this information had been published, including photographs which – the newspaper accepted – had been taken through subterfuge. The subject of the article was clearly very sensitive and likely to provoke a strong reaction in some people. In these circumstances, the newspaper should have taken greater care to protect the identities of the children. Furthermore, the Commission could not agree that the use of misrepresentation to obtain some of the photographs was justified. The complaints under Clauses 6 (Children) and 11 (Misrepresentation) were upheld.

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