



(i) Johann Hari (PCC Paper No. 5233)

At its last meeting it was agreed that the PCC would explore the conduct of Johann Hari further with the editor. The Commission was informed that it had not received any complaints about this matter.

The Commission discussed whether to take any further action, having considered correspondence between the Director and the editor. It was agreed that the Chair would write to the editor and request further information. The issue would then be discussed further at the next meeting of the Commission.

(ii) Triesman v The Mail on Sunday

Following discussion at the previous meeting the Chair informed Commissioners that this case had been resolved between the parties.

(iii) Complaint No. 11-3141 Thomson v Daily Record (PCC Paper No. 5237)

Tina Weaver took no part in the discussion of this complaint and left the room.

This related to a complaint which the Commission had upheld at its September meeting. While the decision had not been formally challenged by the newspaper the Commission had been asked for clarification on the basis for the decision. The Commission approved a letter to be sent to the newspaper which addressed the points and invited the newspaper to publish the adjudication at the earliest opportunity.

4. Complaints(i) Complaint No. 11-2680 Brady v Daily Mirror (PCC Paper No. 5227)

Tina Weaver remained out of the room.

Following discussion of this case, the Commission decided that there had not been a breach of the Editors' Code. It issued the following adjudication:

*Mr Ian Stewart Brady complained to the Press Complaints Commission that an article headlined "Inside the mind of a madman" published in the Daily Mirror on 23 May 2011 contained material that intruded into his private life in breach of Clause 3 (Privacy) of the Editors' Code of Practice.*

*The complaint was not upheld.*

*The article contained extracts from letters sent by the complainant – a patient at Ashworth Hospital – to another individual, who had provided them to the newspaper for publication. The extracts included the complainant’s views on a number of issues: his hope that the IRA might reactivate; his views on modern politicians, including Tony Blair and his role in the Iraq war; his belief that Islamist terror groups lacked commitment; his hatred of the modern obsession with food and television; his views on public health and class issues; and a reference to his enjoyment of European wine in the years before his crimes. The complainant had also made references to the conditions of his detention: his unhappiness about the lack of internet connection at Ashworth; his complaints about the quality of the hospital’s food; his determination that no Ashworth staff would attend his funeral; and recollections of his incarceration in prison before being transferred to Ashworth. The complainant’s solicitors said that their client was being detained under the Mental Health Act and that publication of his private correspondence had breached Clause 3 (Privacy) of the Editors’ Code.*

*The newspaper said that the letters had been written to a member of public, who had corresponded with the complainant for some months. She had been disturbed by the content of some of the letters and had provided them for publication. In light of the nature of the complainant’s crimes, there was a general public interest in knowing about his state of mind, particularly in connection to terror groups whose aim was presumably to kill innocent people. The newspaper also argued that there was a public interest in reporting the complainant’s ongoing complaints about the staff at, and treatment provided by, Ashworth Hospital. Little of the published information related to medical matters, although the newspaper said that details about his treatment (and about his ongoing hunger strike) were well-established in the public domain as a result of previous reports. The newspaper also pointed to previous letters written by the complainant to members of the public, which had been published in media outlets.*

### *Adjudication*

*Clause 3 of the Code states that everyone is entitled to respect for his or her “private and family life, home, health and correspondence”. This means that the publication of private correspondence sent by one person to another can constitute an invasion of privacy. However, in reaching a judgment on such complaints, the Commission must take into account a variety of factors, including: the relationship between the correspondents; the nature of the published information and the reasons for publication; and the question of the public interest. The public profiles of the individuals concerned may also be relevant.*

*In this instance, the complainant was one of the most notorious individuals in the country, who had committed a series of serious criminal acts almost half a century ago. He had spent almost two decades in prison as a result of his convictions, before being transferred to Ashworth high-security psychiatric hospital, where he was detained under the Mental Health Act. His crimes, subsequent incarceration and detention at Ashworth had been the subject of intense media and public scrutiny over a considerable period of time. As such, the Commission considered that the complainant could be regarded as a 'public personality', a figure whose criminal activities, detention, medical condition (especially relating to his mental health) and treatment were properly the subject of ongoing legitimate discussion and examination. There was, therefore, a general public interest inherent in publishing information that added to this discussion.*

*As to the specific material under complaint, the newspaper had received letters (provided by the recipient) which had been sent by the complainant, voluntarily, to a member of the public with whom he had corresponded over a consistent period. During his time in prison and in Ashworth Hospital, it appeared that the complainant had corresponded with many members of the public and numerous letters written by him had been published by media outlets in the past. In these circumstances the Commission did not think it was reasonable to conclude that the relationship between him and the recipient of his letters should be regarded as confidential. This was particularly the case as there was no evidence that the complainant and the other party in the correspondence were more than casual acquaintances. On this occasion, the complainant had been disseminating his thoughts on a wide range of issues to a person who had no strong relationship ties with him.*

*The final key factor for the Commission to consider was the precise nature of the information that the newspaper had revealed by publication of the extracted letters. It essentially fell into two categories: the complainant's views on the state of the world; and his views about Ashworth Hospital and his ongoing treatment there.*

*The Commission did not regard the information in the first category as especially personal, of a type that would generally warrant privacy protection. In any case, insofar as it gave an insight into the character of such a notorious individual, there was a public interest in allowing readers to examine his views on what were essentially matters of public debate. Given the complainant's past behaviour, there was some public interest in the publication of evidence of his existing violent and angry propensities.*

*In regard to the second category, the Commission concluded that this information was anodyne. There were no details about the complainant's medical treatment nor anything about intimate, personal relationships. And again, in light of the ongoing interest in the complainant's continued detention and persistent protests (which had involved him being on hunger strike for a number of years), there was a public interest in revealing his own thoughts about the hospital at which he was being held.*

*In all the circumstances of this case, which was an unusual one simply because of the background of the complainant, the Commission concluded that there had been no breach of Clause 3. The complaint was not upheld.*

Relevant rulings

*Coonan v News of the World, 2007*  
*Shipman v Daily Mirror, 2001*

- (ii) Complaint No. 11-3594/11-3939 A man v Wishaw Press/Hamilton Advertiser (PCC Paper No 5236)

Tina Weaver remained out of the room while the Commission considered these cases.

Following discussion of the issues, the Commission decided that the newspapers had breached Clause 6 of the Editors' Code. It therefore issued the following adjudications:

**Wishaw Press**

*A man complained to the Press Complaints Commission that an article headlined "Un-fare?", published in the Wishaw Press on 10 August 2011, had intruded into his daughter's time at school and had included a photograph of her without consent in breach of Clause 6 (Children) of the Editors' Code of Practice.*

*The complaint was upheld.*

*The article reported that North Lanarkshire Council was paying £27,000 in taxi fares over three years to take the thirteen-year-old granddaughter of Motherwell and Wishaw MSP John Pentland to a dance school in Glasgow. The complainant was the father of the child. He said that – while his daughter had not been named in the council report – the article had named and identified her, including through the republication of a photograph of his family celebrating Mr*

*Pentland's election in May. While the complainant had provided comment for the article, he had not given consent for the publication of his daughter's photograph in this context. The publication of the article, he said, had caused distress to his daughter: she had suffered unpleasant comments at school and on social networking sites.*

*The newspaper said that its enquiries had been conducted in the public interest: it was reasonable to investigate whether a taxi costing about £9,000 per year was the best use of taxpayers' money at a time of increased service cuts, when public transport into Glasgow was readily available. The council report had revealed the street in which the complainant's daughter lived, which was a matter of public record. The complainant had discussed the situation with its reporter willingly over the telephone. As such, the newspaper did not consider that there was any issue with reporting the child's identity. The photograph of the child had been taken with the consent of her parents when her grandfather had been elected to the Scottish Parliament, and therefore existed within the public domain.*

*The complainant said he had not been happy to speak to the newspaper, but felt he had had no choice: the newspaper had contacted him and his wife on several occasions and had indicated that the story would be published with or without his co-operation. In his view, the public interest could have been served without his daughter being named or pictured.*

*The newspaper said that – while it stood by the publication of the story – it would be happy to write a private letter of apology to the complainant's family expressing regret that the article had caused upset. It also offered to remove the photograph from its website and confirm that it would not publish the child's name or photograph in the future. The complainant did not consider that such action adequately addressed the situation, asking for a public apology.*

#### *Adjudication*

*There was clearly a legitimate public interest in reporting on how taxpayers' money was being spent by the council, especially in a time of economic austerity. The issue for the Commission was whether the newspaper had struck an appropriate balance between the public's right to be made aware of the facts and the right of the complainant's daughter to complete her time at school without unnecessary intrusion.*

*There were some arguments in the newspaper's favour here. First, the complainant had spoken (albeit, in his view, unwillingly) to the newspaper prior to publication and discussed the circumstances of the payments. Second, the photograph had previously appeared with*

*consent at the time of the MSP's election. Clearly, the newspaper had sought to take into account the requirements of the Code when reaching its decision.*

*In these circumstances, the question for the Commission was whether the combination of naming and photographing the complainant's child constituted an "unnecessary intrusion" under the terms of Clause 6 (Children) of the Code. It judged that it did. The Commission did not consider that the intrusion, caused by the child specifically being named and photographed in the newspaper, was necessary in the circumstances. The attention drawn to the complainant's daughter, given the detail in the story, had the potential to cause her embarrassment at school.*

*While there was a genuine public interest in the story itself, in the Commission's view, this could have been served without the identity of the child being highlighted. It was noticeable that other newspapers, for example, had decided not to identify the child in the circumstances, or had sought to minimise the possibility of identification.*

*The Code requires an exceptional public interest in cases involving children, and the Commission did not consider that this high requirement had been met on this occasion. While the Commission welcomed the newspaper's offers – including a private letter of apology and the removal of the photograph from its website – the complaint was upheld under Clause 6.*

#### Relevant rulings

*Kelly v Daily Mirror, Report 74  
Levene v The Sunday Times, 2010*

#### **Hamilton Advertiser**

*A man complained to the Press Complaints Commission that an article headlined "Public foots £27k taxi bill for granddaughter of MSP", published in the Hamilton Advertiser on 11 August 2011, had intruded into his daughter's time at school and had included a photograph of her without consent in breach of Clause 6 (Children) of the Editors' Code of Practice.*

*The complaint was upheld.*

*The article reported that North Lanarkshire Council was paying £27,000 in taxi fares over three years to take the thirteen-year-old granddaughter of Motherwell and Wishaw MSP John Pentland to a*

*dance school in Glasgow. The complainant was the father of the child. He said that – while his daughter had not been named in the council report – the article had named and identified her, including through the republication of a photograph of his family celebrating Mr Pentland's election in May. While the complainant had provided comment for the article, he had not given consent for the publication of his daughter's photograph in this context. The publication of the article, he said, had caused distress to his daughter: she had suffered unpleasant comments at school and on social networking sites.*

*The newspaper said that its enquiries had been conducted in the public interest: it was reasonable to investigate whether a taxi costing about £9,000 per year was the best use of taxpayers' money at a time of increased service cuts, when public transport into Glasgow was readily available. The council report had revealed the street in which the complainant's daughter lived, which was a matter of public record. The complainant had discussed the situation with its reporter willingly over the telephone. As such, the newspaper did not consider that there was any issue with reporting the child's identity. The photograph of the child had been taken with the consent of her parents when her grandfather had been elected to the Scottish Parliament, and therefore existed within the public domain.*

*The complainant said he had not been happy to speak to the newspaper, but felt he had had no choice: the newspaper had contacted him and his wife on several occasions and had indicated that the story would be published with or without his co-operation. In his view, the public interest could have been served without his daughter being named or pictured.*

*The newspaper said that – while it stood by the publication of the story – it would be happy to write a private letter of apology to the complainant's family expressing regret that the article had caused upset. It also offered to remove the photograph from its website and confirm that it would not publish the child's name or photograph in the future. The complainant did not consider that such action adequately addressed the situation, asking for a public apology.*

#### *Adjudication*

*There was clearly a legitimate public interest in reporting on how taxpayers' money was being spent by the council, especially in a time of economic austerity. The issue for the Commission was whether the newspaper had struck an appropriate balance between the public's right to be made aware of the facts and the right of the complainant's daughter to complete her time at school without unnecessary intrusion.*

*There were some arguments in the newspaper's favour here. First, the complainant had spoken (albeit, in his view, unwillingly) to the newspaper prior to publication and discussed the circumstances of the payments. Second, the photograph had previously appeared with consent at the time of the MSP's election. Clearly, the newspaper had sought to take into account the requirements of the Code when reaching its decision.*

*In these circumstances, the question for the Commission was whether the combination of naming and photographing the complainant's child constituted an "unnecessary intrusion" under the terms of Clause 6 (Children) of the Code. It judged that it did. The Commission did not consider that the intrusion, caused by the child specifically being named and photographed in the newspaper, was necessary in the circumstances. The attention drawn to the complainant's daughter, given the detail in the story, had the potential to cause her embarrassment at school.*

*While there was a genuine public interest in the story itself, in the Commission's view, this could have been served without the identity of the child being highlighted. It was noticeable that other newspapers, for example, had decided not to identify the child in the circumstances, or had sought to minimise the possibility of identification.*

*The Code requires an exceptional public interest in cases involving children, and the Commission did not consider that this high requirement had been met on this occasion. While the Commission welcomed the newspaper's offers – including a private letter of apology and the removal of the photograph from its website – the complaint was upheld under Clause 6.*

*Relevant rulings*

*Kelly v Daily Mirror, Report 74*  
*Levene v The Sunday Times, 2010*

- (iii) Complaint No. 11-3149 *Brown v The Sunday Telegraph* (Paper No. 5226)

Tina Weaver rejoined the meeting. Ian MacGregor took no part in the discussion of the complaint and left the room while it was discussed. Following a request from the complainant Peter Wright also agreed to leave the room.

Following discussion of this case, the Commission ruled that – while there had been an initial breach of Clause 1 (Accuracy) of the Code –

the newspaper had taken and offered a sufficient form of remedial action.

The Commission agreed that, in all sufficient remedial action cases, the summary should reflect the existence of the initial breach.

It issued the following adjudication:

*Gordon Brown MP complained to the Press Complaints Commission through Reed Smith LLP that an article headlined “Inside story of Murdoch’s special relationship with our politicians”, published in The Sunday Telegraph on 10 July 2011, was inaccurate and misleading in breach of Clause 1 (Accuracy) of the Editors’ Code of Practice.*

*While there had been an initial breach of Clause 1, the newspaper had taken and offered a sufficient form of remedial action.*

*The article – an analysis of the relationship between political parties in the United Kingdom and News International – claimed that Rupert Murdoch was “once warned by Gordon Brown, while still in No 10, that he would smash the tycoon’s media empire if Labour won last year’s general election” and that he had “told Rupert he had made his choice politically and [...] ‘you had better win the election or we are coming after you’ – or words to that effect”. The context was said to be that “at the time, some members of Mr Brown’s inner circle were secretly preparing a package of measures that included an inquiry into phone hacking and an investigation into media ‘plurality’”.*

*The complainant said this claim was entirely incorrect and had been misleadingly presented as fact: he had not made any such threat in his telephone call with Mr Murdoch. The telephone call, which was personal between the complainant and Mr Murdoch, had been about The Sun’s reporting of Afghanistan, which he considered to be undermining the war effort. A contemporaneous follow-up email had subsequently been sent to Mr Murdoch confirming the complainant’s recollection of the call. The newspaper had not sought the complainant’s comments before publication, as it should have done given the nature of the allegation.*

*The complainant said that – as soon as the article appeared online – he had contacted the newspaper to complain. The article had then been amended to include his denial of the claim (albeit, he said, buried within the text). In the complainant’s view, the article now read as if the truth of the allegation was not in doubt, and that he was wrong to deny it. While the article had subsequently been removed from the newspaper’s website, the complainant had rejected offers of either a letter for publication or an interview. As it was simply untrue that the threat had been made, the article should not have appeared in the first*

*place. This was not a case of reporting a viewpoint and a denial: the newspaper had taken sides and, accordingly, it was its responsibility to correct the record properly. The complainant said that a correction confirming that the story was “wholly wrong” and an unreserved apology was required on the part of the newspaper.*

*The newspaper said that the anecdote in question had not been considered controversial at any point prior to publication: the complainant had frequently adopted a robust approach towards Mr Murdoch. The piece was not intended to be and would not have been understood as an attack on him. The existence of the telephone call had been reported in 2009 as part of coverage of deteriorating relations between the government and News Corporation. Around this time, the newspaper’s political editor had become aware of the claims about the content of the telephone conversation from a member of the complainant’s inner circle, including suggestions of forthcoming inquiries into phone hacking and media plurality. It was not seen as newsworthy at the time.*

*Prior to the recent publication, the newspaper said that it had spoken to another member of the inner circle who had repeated the anecdote, independently and without prompting. This was seen as a colourful and valuable illustration of an important political relationship, provided by trusted sources who had direct knowledge of the telephone call. The anecdote was not adopted by the newspaper; rather, it was presented as an account provided by a “former aide of Mr Brown’s”.*

*The newspaper said that it had taken immediate steps to address the concerns raised by the complainant at the time of publication. While it remained of the view that the sources were reliable, it had modified the online version of the piece, softening the anecdote and including a clear and prominent statement outlining the complainant’s denial (which was not buried). The print edition was also altered in the same manner, ensuring that the later editions were substantially different to the first edition. The article was also removed as a gesture of goodwill and on a without prejudice basis. Further offers of the interview or letter for publication were rejected. Even so, the newspaper also published a denial the following week as part of its news coverage of the same issue. Following publication, its political editor had received unprompted confirmation from a third individual, again close to the complainant, that the account was accurate.*

*The newspaper said that it was important to recognise the value of confidential sources who were vital in ensuring that material of public interest was brought into the public domain. The Code itself said that there was a “moral obligation” on newspapers to protect such sources,*

*a principle reflected in law. The two pre-publication sources in this case provided the information on a precondition of confidentiality: this was necessary and warranted in the circumstances. Nonetheless, the newspaper offered to publish a further, stand-alone text outlining the complainant's position, which read as follows:*

*Following our article "Inside story of Murdoch's special relationship with our politicians" (July 10), Gordon Brown has asked us to make clear that, during a telephone call while Prime Minister, he did not threaten Rupert Murdoch about what would happen to his media empire after a general election.*

*The complainant said that the newspaper had no specific evidence to support the extraordinary claim, and did not believe that a third source had verified it post-publication. In his view, the newspaper was using the sources to protect itself. He then supplied four on-the-record witness statements from individuals who had listened to the telephone call, in full or in part, and another from an individual who was briefed on it after it had been made. In the circumstances, it was incumbent on the newspaper to set the record straight in an appropriate manner, including a full apology. He suggested the following wording:*

*In our July 10 2011 edition, we wrongly reported that, in a conversation between Gordon Brown and Rupert Murdoch, Mr Brown had threatened Mr Murdoch generally and specifically about what would happen to Mr Murdoch's empire after a General Election. This report was wholly wrong, and we apologise unreservedly to Mr Brown.*

*The newspaper did not agree to this text, and considered that it had addressed the complaint in a proportionate manner. It also pointed to public comments made by the former editor of The Sun, Kelvin MacKenzie, who had revealed a story that the complainant had been "furious" in the telephone conversation with Mr Murdoch at the time Mr Murdoch had publicly supported David Cameron. In the newspaper's view, this corroborated the account it had published.*

*The complainant said that this second-hand account was at the time of the Labour Party Conference in September 2009. The telephone call in question in the complaint had taken place in November 2009. In any case, the words ascribed to him during the alleged call had not been made.*

### *Adjudication*

*Confidential sources are a fundamental feature of journalism, especially in political stories, and newspapers are clearly entitled to*

*use information provided by individuals who indicate that they do not wish to be identified for various reasons. Clause 14 of the Editors' Code sets out that journalists have a "moral obligation to protect confidential sources of information".*

*The Commission's case law is clear, however: newspapers cannot simply rely on confidential sources when material provided by them is said to be inaccurate. The Commission has previously ruled [Clarke v The Times, Report 58] that – where the accuracy of information which stems from a confidential source is challenged – the newspaper "must be able either to produce corroborative material to substantiate the allegations or to demonstrate that the complainant has a suitable opportunity to comment on them".*

*On this occasion, the newspaper had not provided any form of on-the-record evidence to corroborate the allegation and had not asked the complainant for his comments prior to publication. In the Commission's view, this latter point was crucial. Although the information had been based on confidential sources, the Commission took the view that the story had initially been presented as a factual statement in the copy (later attributed to an aide) and readers would not have been aware that the accuracy of the story may have been in dispute. The specific claim in the article – central to the article's argument about the relationship between the political elite and News International – was plainly a significant one, which reflected directly on the complainant.*

*Given the seriousness of the claim, the Commission considered that the newspaper should have put the allegation to the complainant before publication, taking into account the requirements of Clause 1 (i) of the Code which states that newspapers must "take care not to publish inaccurate, misleading or distorted information". The Commission wished to make clear that prior notification is not an absolute requirement under the Code; however, the omission of the complainant's position in regard to this point had led to a breach of Clause 1 of the Code.*

*In this context, the next question for the Commission was whether the newspaper – having been informed of the complainant's categorical denial of the claim after publication – had demonstrated that he had been given a suitable opportunity to respond to it. The newspaper had taken a number of steps to address the complaint: the addition of his denial to the online article at the time of publication, and the modification of the paper edition; the removal of the online article; the publication of his denial as part of the following week's coverage; the offer to publish a letter from the complainant, or conduct an interview with him; and the offer to publish a clarification outlining his position. In the Commission's view, the complainant's denial of the claim had*

*been stated publicly, and the newspaper had offered to clarify this further in a variety of ways.*

*While the Commission had due regard for the witness statements supplied by the complainant, and the contemporaneous email he had provided, ultimately it was not in a position to determine precisely the content of a historical conversation between the then Prime Minister and Rupert Murdoch. However, it was able to ensure that readers would be aware that the complainant denied the account presented in the newspaper. The Commission considered that the stand-alone text – to be published with due prominence – represented the most appropriate manner in which the position could be made clear to readers. This should be published at the earliest opportunity after the publication of this adjudication, unless the complainant objected. In all the circumstances, the Commission decided that the newspaper had remedied the initial breach of the Code, and there were no outstanding issues to pursue.*

*Relevant rulings*

*Burrell v News of the World, Report 78*

*Clarke v The Times, Report 58*

- (iv) *Complaint No. 11-2556/11-3002 Full Fact v Daily Mail (PCC Paper No. 5232)*

Ian MacGregor rejoined the meeting. Peter Wright remained out of the room while the case was discussed.

Following discussion of the case the Commission ruled that initial breaches of Clause 1 (Accuracy) of the Editors' Code had been remedied by the newspaper. It issued the following adjudication:

*Full Fact complained to the Press Complaints Commission that two articles headlined "UK doles out more aid than any other country" and "Britain's broken schools", published in the Daily Mail on 27 May 2011 and 11 July 2011 respectively, were inaccurate and misleading in breach of Clause 1 (Accuracy) of the Editors' Code of Practice.*

*While there had been initial breaches of Clause 1, the newspaper had offered a sufficient form of remedial action under the terms of the Code.*

*Both pieces were front page articles, which also appeared online. The first article reported that a paper released at the G8 summit revealed that "Britain spends more on aid as a percentage of national income*

*than any other country in the world – while British taxpayers suffer through an age of austerity”. The complainant – and another individual – said that this was incorrect: while the UK paid out, as a proportion, more foreign aid than any other G8 country, five other countries (Norway, Luxembourg, Sweden, Belgium and the Netherlands) paid more in percentage terms. It was also the case that the United States paid more in cash terms.*

*The second article reported on the state of Britain’s schools, claiming that “violent behaviour in our classrooms has doubled in just a year”. The article stated that almost 1,000 pupils had been excluded per school day in 2009/10, compared with 452 in 2008/09. Full Fact said that these figures were incorrect: the statistics for the academic year 2009/10 had not been released at the time of publication and the 1,000 figure was actually the total number of exclusions per day for the year 2008/09 including verbal abuse and threatening behaviour (not just for physical violence). The claim that violent behaviour had “doubled” in a year was inaccurate: the previous year, the equivalent figure was 1,103.*

*The newspaper accepted that the first article was wrong when it claimed that Britain spends more on aid than “any other country”: the correct position was that it spends more on aid than “any other major country”. The original copy had stated that the UK leads the “developed world” in terms of aid donations; the error had been introduced in the sub-editing process. The article itself (which had included a table which set out the figures in clear terms) had shown that the UK was, in percentage terms, at the top of the ranking for G8 countries. The newspaper said that it was plain that the UK was a world leader in terms of foreign aid: the countries which paid out more in percentage terms were not major economies (Luxembourg’s cash contribution was less than 3% of the UK’s donation; Norway, the largest donor of the five, donated less than a third of the UK total). To address the complaint, however, the newspaper amended the online article and offered to publish the following wording in the paper and online:*

*A front-page article on 27 May said that Britain spends more on aid as a percentage of national income than any other country in the world. In fact it spends more than any other G8 country as a percentage of GDP and is second in the world behind the US in cash terms.*

*The newspaper immediately acknowledged the error in the second article, explaining that it had inadvertently compared a previously reported figure for physical assault (around 450 pupils a day) against one which included verbal abuse and threatening behaviour (1,000 pupils a day). The figures had been put to the Department of Education*

*prior to publication and had not been challenged. The newspaper amended the online article to remove the assertion that classroom violence had doubled and offered to publish the following wording, in the newspaper and online:*

*An article on July 11 reported that 1,000 pupils a day are excluded for violent behaviour and that this has doubled in a year. While the figure for exclusions is correct – and all statistics were put to the Department before publication – this does not in fact represent an increase.*

*The newspaper said both corrections would appear on page 2 in what was likely to become its dedicated Corrections and Clarifications column.*

*While Full Fact was content that both wordings addressed the complaints, it rejected the proposals because the newspaper had not offered to publish the corrections on the front page. Given that both stories had appeared on the front page, it did not agree that the proposals to correct the record on page 2 satisfied the requirements of the Editors' Code in regard to "due prominence".*

#### *Adjudication*

*The complaints were good examples of cases in which unconnected third parties had drawn factual errors to the attention of the PCC, which required remedial action. They allowed the Commission the opportunity to set out its thinking on the prominence of corrections in relation to the requirements of Clause 1 of the Editors' Code. The Commission has been monitoring the prominence of the corrections and apologies it negotiates for a number of years. In doing so, it has been able to show how the requirements of "due prominence" in the Code have meant that such texts are not hidden in the back pages of newspapers and magazines. However, the issue of "due prominence" will never be an exact one, and there will always be legitimate calls for newspapers and magazines to highlight corrections with greater clarity.*

*In these two cases, the Commission had to consider the specific question of whether the front-page inaccuracies required front-page corrections.*

*When considering the issue of "due prominence", the Commission has strong regard for the location of the original article. However, this cannot be the only determining factor. The Commission will consider the full circumstances surrounding the complaint: the nature of the breach of the Code; the scale of the error; the full context of the story; and the existence or otherwise of a designated corrections column.*

*Whatever the circumstances, however, the appearance on two separate occasions of significant inaccuracies on the newspaper's front page was a matter of serious concern to the Commission. It was incumbent on the newspaper to correct the record in an appropriate way.*

*The Commission welcomed the newspaper's indication that it intended to institute a corrections column. A regular (and appropriately prominent) location for corrections can mean additional prominence for the rectification of mistakes, and the Commission considered that it was good practice for newspapers and magazines to make use of this facility.*

*In the first article, it was plain that the front-page headline (reiterated in the text) was factually inaccurate. The actual position was that, in percentage terms, the UK spent the most on foreign aid of all the G8 countries, rather than any other country. However, the overarching point remained that the UK was a world leader in terms of foreign aid. The article went on to make clear that the UK outspent other G8 nations in percentage terms. As the newspaper had argued, the five countries which paid out more (in percentage terms) in foreign aid were making small cash contributions in comparison with the UK.*

*This was a significant inaccuracy, which raised an initial breach of Clause 1 of the Code. Greater care should have been taken by the newspaper in presenting the story. However, given the nature of the inaccuracy, the Commission considered that it was appropriate for it to be clarified online and in the newspaper on page 2 as part of a new Corrections and Clarifications column. In the Commission's view, the error was not of such import that the Code required a front-page correction.*

*The second article – in the Commission's view – contained a more straightforward inaccuracy: the claim that exclusion rates for violent behaviour had "doubled". The basis of the comparison had simply been wrong, contrasting the number of exclusions per day for physical assault for 2008/9 with the number of exclusions which also took in "verbal abuse and threatening behaviour".*

*Nonetheless, the figure itself (included in the article) of 1,000 exclusions per day for assault and abuse generally was correct, and the newspaper had sought to verify the accuracy of the statistics with the relevant authority before publication. The thrust of the article as a whole (discussing problems within British schools) was not negated by the error. Given the context of the error, and the steps the newspaper had taken prior to publication, the Commission concluded that the corrections column on page 2 represented a sufficiently prominent location for this item.*

*It may be appropriate, on some occasions, for a correction to a front page story to be published on the front page, and the PCC has negotiated such texts in the past. The Commission does not believe that every front-page error, in whatever context, must be corrected in the same location. In these cases, the Commission had to have regard for the full context of the errors. While the mistakes were sloppy, the issues were not personal to the complainant and had not caused personal harm. In addition, in the Commission's view, the errors did not render the coverage of either story to be wholly inaccurate, including on the front page. In the full circumstances of the complaints raised on this occasion, page 2 corrections (within a new column) were proportionate.*

*The Commission expected that the corrections should be published at the earliest opportunity, after the publication of this adjudication.*

(v) Complaint No. 11-1686 Antoniou v Woman (PCC Paper No. 5228)

Peter Wright rejoined the meeting.

Following discussion of this case the Commission ruled that there had been a breach of Clause 1 of the Code. It did not uphold the complaint under Clauses 3, 6 and 16. It issued the following adjudication:

*Mr Andreas Antoniou complained to the Press Complaints Commission that an article headlined "I'm scared I'll never see my little boy again", published in Woman on 14 March 2011, was inaccurate and misleading in breach of Clause 1 (Accuracy) of the Editors' Code of Practice.*

*The complaint was upheld.*

*The article was a first-person piece from the point of view of the complainant's former wife, Sarah Antoniou, setting out her account of the couple's custody dispute over their son. In particular, the article focused on her decision to take the child from Cyprus to the UK in 2009 without the complainant's consent. At the time of publication, Ms Antoniou was facing charges in Cyprus of kidnapping (in relation to this incident) and soliciting to aid and abet murder (in relation to allegations that she had hired a 'hitman' to kill the complainant). At the time of the Commission's consideration of the case, Ms Antoniou and the child had disappeared once more and their location was unknown.*

*The complainant denied a number of claims made by his ex-wife in the article about the dispute and the arrangements that had been put in place for the child's care. He especially challenged her position that*

*she had taken the child to the UK because he required medical care that was unavailable in Cyprus. The magazine had not contacted him before publication.*

*The magazine said that it had not contacted the complainant because he was not accused of any specific wrongdoing. It had read back the text to Ms Antoniou's mother to ensure its accuracy before publication and she had referred to letters from doctors to support her daughter's position about medical care. The magazine was unable to provide this documentation as it was said to be in Ms Antoniou's possession. The magazine offered to address the complainant's concerns in a number of ways: it drafted a private apology to the complainant in addition to offering to publish a letter from him. It also offered to publish a further article from his perspective setting out his version of events and appealing for readers' assistance in locating his son.*

#### *Adjudication*

*The Commission was not in a position to resolve the factual dispute at the heart of this story, not least since legal proceedings were ongoing and Ms Antoniou could not be reached for further input (or any documentary evidence to support her story). Nonetheless, the Commission had to consider whether the magazine had taken care not to publish inaccurate or misleading information in accordance with the terms of Clause 1 of the Code.*

*The Code does not impose a specific requirement on newspapers or magazines to contact those who feature in a published article on every occasion. However, newspapers and magazines will often need to put significant claims to interested parties both to help establish the veracity of the allegations and to make readers aware of alternative versions of events. This is part of taking "care not to publish inaccurate information".*

*The Commission considered that such care was necessary in this case. The story had identified the complainant by name and included pictures of him along with a detailed and highly contentious account of the custody dispute, including specific criticism of him. The magazine was relying primarily on the account of one party, who had not supplied documentary evidence to support her position. The claims had not, therefore, been fully tested.*

*Given the contentious nature of the dispute, and the prominence given to the claims, the Commission considered that the magazine should have sought to obtain the comments of the complainant. He would have strongly challenged the account given by Ms Antoniou. The absence of his response to the serious claims would have misled*

readers in a significant manner and the result was a breach of Clause 1.

*The Commission welcomed the magazine's efforts to resolve the matter with the complainant, including its offer to publish a further article. However, it did not consider that this was sufficient to remedy the breach of the Code on this occasion. The complaint was upheld.*

Relevant ruling

*Burrell v News of the World (2008)*

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*Mr Antoniou also complained that the article had intruded into his private life in breach of Clause 3 (Privacy), included photographs of his son in breach of Clause 6 (Children) and that the magazine had paid an associate of a confessed criminal for photographs in breach of Clause 16 (Payments to criminals) of the Code.*

*The complaints were not upheld.*

*The Commission started from the position that Ms Antoniou some rights to freedom of expression and to tell her story. The nature of the story, and her relationship with the complainant, meant that this would touch, by necessity, on material relating to a certain extent to his private and family life. However, in the Commission's view, the article was a straightforward account of Ms Antoniou's own experiences and had not contained any excessive or gratuitously personal detail about the complainant. The Commission decided that the publication of the story did not represent a failure to respect the complainant's private life and there was no breach of Clause 3.*

*The complaint under Clause 6 related to the publication of photographs of the complainant's son, to which the complainant had not provided consent. Clause 6 states that "a child under 16 must not be interviewed or photographed on issues involved their own... welfare unless a custodial parent or similarly responsible adult consents". The photographs of the complainant's son along with information about the custody battle undoubtedly related to his welfare; however, Ms Antoniou had consented to the publication of the article. The complainant had not been granted sole custody of the child and, in these circumstances, the Commission could not establish a breach of Clause 6.*

*Finally, the Commission considered the matter under the terms of Clause 16 after the complainant had queried whether any payment had been made for the article. The magazine had accepted that it had paid*

*Ms Antoniou's mother a fee for the use of the photographs of the family.*

*Clause 16 states that "Payment or offers of payment for stories, pictures or information, which seek to exploit a particular crime ... must not be made directly or via agents to convicted or confessed criminals or to their associates – who may include family, friends and colleagues". The question for the Commission was whether, in the particular circumstances of this case, the magazine had paid an associate of a convicted or confessed criminal. It was true that the article had contained Ms Antoniou's admission that she had sought to "escape Cypriot authorities". However, the court proceedings against Ms Antoniou were ongoing. In the absence of an admission that she had committed a specific crime or the conclusion of the judicial process, the Commission could not establish that Ms Antoniou was a "convicted or confessed criminal" and that therefore no payment could be made to her mother without a public interest defence. There was no breach of Clause 16.*

(vi) Complaint No. 11-3439 Clark v Maidenhead Advertiser (PCC Paper No. 5235)

As there had also been a similar complaint about from the same complainant about an article in the Daily Telegraph, Ian McGregor took no part in the discussion of this complaint and left the room while it was discussed.

Following discussion of this case the Commission ruled that there had been a breach of Clause 6 of the Editors' Code. It issued the following adjudication:

*Miss Sharon Clark complained to the Press Complaints Commission that an article headlined "Dad dies trying to save daughter", published in the Maidenhead Advertiser on 21 July 2011, included a photograph of her daughter without consent in breach of Clause 6 (Children) of the Editors' Code of Practice.*

*The complaint was upheld.*

*The article reported on the death of Michael Payne who had died after jumping into the Thames to save his thirteen-year-old daughter. The article had included a photograph of the girl with her father. The complainant, the child's mother, said that she had not given consent for the photograph of her daughter to appear and the article had caused significant distress to her and her family.*

*The newspaper said that the photograph had been provided by a news agency and it had understood at the time that the relevant consent had been given. After receiving the complaint, it had been informed that the photograph had been obtained from Facebook and no consent had been obtained. The newspaper accepted a breach of Clause 6 and apologised to the family in the form of a private letter. It was unable to agree to her request for a goodwill payment, however.*

*The complainant did not accept the newspaper's apology.*

#### *Adjudication*

*Clause 6 (ii) of the Code states that "a child under 16 must not be photographed on issues involving their own or another child's welfare unless a custodial parent or similarly responsible adult consents".*

*The article in this case clearly related to the welfare of the complainant's daughter: it had reported how her father had lost his life while trying to save her. The photograph showed the complainant's daughter in a bathing costume hugging her father.*

*In the context of the story, this was plainly an intrusive image. It was the newspaper's responsibility to check that the relevant consent had been obtained for the publication of the photograph, especially given the age of the girl and the tragedy she had just suffered. It had not done so and had therefore clearly breached the terms of Clause 6. Given the nature of the breach, the Commission did not consider that it could be properly remedied after the event. While the Commission welcomed the newspaper's immediate acknowledgement of this, and its letter of apology, the complaint was still upheld.*

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*The Commission also received a complaint about the publication of the same photograph in The Daily Telegraph on 16 July 2011, which raised a breach of the Code for the reasons stated above. In addition to an apology, the newspaper met the complainant's request for a goodwill payment and the complaint was resolved privately between the parties prior to the Commission being asked to rule on the matter.*

*The complainant's decision to accept the resolution meant that her case against the Daily Telegraph was withdrawn having been settled, but this ruling makes clear the PCC's position that the photograph raised a breach of the Code. It agreed that the Chairman would follow-up the complaint by writing to the newspaper directly.*

Ian McGregor rejoined the meeting.

(vii) The Commission formally approved (subject to individual queries on specific complaints raised with the office) the following PCC Papers, which had contained draft adjudications for Commissioners' ratification or otherwise: 5203, 5204, 5205, 5206, 5207, 5208, 5209, 5210, 5211, 5212, 5213, 5214, 5215, 5216, 5217, 5218, 5219, 5220, 5221, 5222, 5223, 5224. All papers had been circulated since the previous Commission meeting.

5. Chair and Director's meetings (PCC Paper No. 5238)

Commissioners received an update on appointments undertaken by the Chair and Director.

6. Oral Report from Reform Committee

Michael Smyth informed the Commission that the Reform Committee had met twice since the last meeting and discussed many areas of reform, including remit and independence. He wished to put on record his appreciation to the committee and the secretariat for their work on the submission to the Leveson Inquiry.

7. Any other business

(i) Leveson Inquiry

The Commission discussed the build-up to the Leveson Inquiry, including the three teaching sessions and two seminars which had taken place. The PCC had given a presentation at the teaching session and had been represented at both seminars by lay Commissioners and the Director. The Director gave an update on the PCC's submission to the Inquiry and its likely timescale.

(ii) John Home Robertson

At the end of his term as a Commissioner, the Chair thanked John Home Robertson for his contribution to the Commission. He will be replaced by Neil Watts.

(iii) Will Gore

The Director thanked Will Gore for his service after 11 years at the PCC and wished him well for the future.

8. Date of next meeting

**Wednesday 7 December 2011** at 2.00 pm at Halton House, 20/23 Holborn, London EC1N 2JD