**IN THE MATTER OF:**

**AN INQUIRY UNDER THE INQUIRIES ACT 2005**

**INTO THE CULTURE, PRACTICES AND ETHICS OF THE PRESS**

**CHAIRED BY THE RT HON LORD JUSTICE LEVESON**

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**EXHIBIT "DJB1"**

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This is the Exhibit marked "DJB1" referred to in the Witness Statement of David John Brookes dated 11th November 2011.

**David John Brookes**

The Leveson Inquiry

culture, practices and ethics of the press

Royal Courts of Justice
Strand, London
WC2A 2LL

Solicitor to the Inquiry
Tel: 020 7210 3488
Solicitor.Levesoninquiry@tsol.gsi.gov.uk
www.levesoninquiry.org.uk

**Strictly personal for:**
Mr. D Brookes
Editor – Birmingham Evening Mail
Floor 6
Fort Dunlop, Fort Parkway
Birmingham
SA1 1DN

29 September 2011

Dear Mr. Brookes,

**Leveson Inquiry into the culture, practices and ethics of the press**

**Notice under section 21(2) of the Inquiries Act 2005**

As you are no doubt aware, an Inquiry chaired by the Rt Hon Lord Justice Leveson has been set up under the Inquiries Act 2005. Under Part 1 the Inquiry will inquire into the culture, practice and ethics of the press, as more fully set out in its Terms of Reference available on-line at http://www.levesoninquiry.org.uk

Lord Justice Leveson hopes that witnesses would be willing to assist his Inquiry by providing both a statement and documents and would have been entirely content to do so voluntarily. Unfortunately, given the timescales within which he is has been asked to operate and the desirability of ensuring uniformity of approach to all potential witnesses, he has decided to proceed in a formal manner using the powers conferred upon him by statute. He intends no discourtesy and hopes that you will accept this assurance in the spirit within which it is offered. For the avoidance of doubt, this notice only covers one aspect of the Terms of Reference and, as the Inquiry moves into other areas, it may well prove appropriate to serve further section 21 notices.

In short, under section 21(2) of the Inquiries Act 2005[1], read in conjunction with the Inquiry Rules 2006 (S.I. 2006 No 1838)[2], Lord Justice Leveson, as Chairman of the Inquiry, has power to require a person, within such period as appears to him to be reasonable, to provide evidence to the Inquiry panel in the form of a written statement, and/or to provide any documents in his custody or under his control that relate to a matter in question at the Inquiry.

[1] http://www.legislation.gov.uk/ukpga/2005/12/contents
[2] http://www.legislation.gov.uk/uksi/2006/1838/contents/made

Lord Justice Leveson has determined that it is appropriate, in view of his Terms of Reference and his investigatory obligations, that you should at this stage be required to provide evidence to the Inquiry Panel in the form of a witness statement and to provide any documents in your custody or under your control as more specified below.

The company which owns your newspaper has been asked to provide corporate governance documents, written policies dealing with various matters (including checking of sources, ethical conduct, editorial guidance, compliance, use of private investigators and remuneration/bonus payments) and documents relating to certain expenses, including disbursements to private investigators. Your witness statement should cover at least the following matters or issues:-

(1) Who you are and a brief summary of your career history in the media.

(2) How you understand the system of corporate governance to work in practice at the newspaper where you were/are employed with particular emphasis on systems to ensure lawful, professional and ethical conduct;

(3) What your role is/was in ensuring that the corporate governance documents and all relevant policies are adhered to in practice. If you do not consider yourself to have been/be responsible for this, please tell us who you consider to hold that responsibility;

(4) Whether the documents and policies referred to above are adhered to in practice, to the best of your knowledge;

(5) Whether these practices have changed, either recently as a result of the phone hacking media interest or prior to that point, and if so, what the reasons for the change were;

(6) Where the responsibility for checking sources of information (including the method by which the information was obtained) lies: from reporter to sub-editor to editor, and how this is done in practice (with some representative examples to add clarity);

(7) To what extent an editor is aware, and should be aware, of the sources of the information which make up the central stories featured in your newspaper each day (including the method by which the information was obtained);

(8) The extent to which you consider that ethics can and should play a role in the print media, and what you consider 'ethics' to mean in this context;

(9) The extent to which you, as an editor, felt any financial and/or commercial pressure from the proprietors of your newspaper or anyone else, and whether any such pressure affected any of the decisions you made as editor (such evidence to be limited to matters covered by the Terms of Reference);

(10) The extent to which you, as an editor, had a financial incentive to print exclusive stories (NB. It is not necessary to state your precise earnings);

(11) Whether, to the best of your knowledge, your newspaper used, paid or had any connection with private investigators in order to source stories or information and/or paid or received payments in kind for such information from the police, public officials or others with access to the same: if so, please provide details of the numbers of occasions on which such investigators or other external providers of information were used and of the amounts paid to them (NB. You are not required to identify individuals, either within your newspaper or otherwise);

(12) If such investigators or other external providers of information were used, what policy/protocol, if any, was used to facilitate the use of such investigators or other external providers of information (for example, in relation to how they were identified, how they were chosen, how they were paid, their remit, how they were told to check sources, what methods they were told to or permitted to employ in order to obtain the information and so on);

(13) If there was such a policy/protocol, whether it was followed, and if not, what practice was followed in respect of all these matters;

(14) Whether there are any situations in which neither the existing protocol/policy nor the practice were followed and what precisely happened/failed to happen in those situations. What factors were in play in deciding to depart from the protocol or practice?

(15) The extent to which you are aware of protocols or policies operating at your newspaper in relation to expenses or remuneration paid to other external sources of information (whether actually commissioned by your newspaper or not). There is no need for you to cover 'official' sources, such as the Press Association;

(16) The practice of your newspaper in relation to payment of expenses and/or remuneration paid to other external sources of information (whether actually commissioned by your newspaper or not). There is no need to cover 'official' sources such as the Press Association;

(17) In respect of editorial decisions you have made to publish stories, the factors you have taken into account in balancing the private interests of individuals (including the fact that information may have been obtained from paid sources in the circumstances outlined under paragraph 11 above) against the public interest in a free Press. You should provide a number of examples of these, and explain how you have interpreted and applied the foregoing public interest.

(18) Anything else which you consider will assist the Chairman to arrive at considered conclusions on any aspect of the Terms of Reference, set out above.

(19) If you cannot answer these questions, or take the view that they could be more fully answered by someone else, you must nonetheless provide answers to the extent that you can, and to the extent that you cannot you must provide the Inquiry as soon as possible with names of those who would be able to assist us further.

The documents you should provide to the Inquiry Panel should relate to the following matters or issues:

(a) Any policies or protocols referred to above;

(b) Any details or documents relating to expenses paid to private investigators and/or other external sources of information;

The terms of this formal notice should not necessarily delimit the evidence, including documentary evidence, which you provide to the Inquiry. It may well be that you can give important additional evidence beyond the four corners of the statutory requirements being imposed on you by this notice: if you can, you are encouraged to do so in line with the general invitation extended by Lord Justice Leveson during the course of his opening remarks on 28th July 2011.

Lord Justice Leveson is required under his Terms of Reference to complete his report on the matters or issues under Part 1 of the Inquiry within 12 months. With this in mind, and having regard also to the scale and scope of his foregoing requirements of you, he has determined for the purposes of section 21(2) of the Inquiries Act 2005 that you should comply with this notice by **4pm on Friday 28th October 2011**.

Lord Justice Leveson is also directed by law to explain to you the consequences of failing to comply with this notice. He therefore draws to your attention the provisions of section 35(1) of the Inquiries Act 2005 which make it a criminal offence to fail without reasonable excuse to do anything which is required by a notice under section 21. He wishes to make to clear that all recipients of section 21 notices are having their attention drawn to this provision, since it is a formal legal requirement.

He is also directed by law to indicate to you what you should do if you wish to make a claim under sub-section (4) of section 21, namely a claim that you are either unable to comply with this notice at all, or cannot reasonably comply with this notice within the period specified or otherwise. You are invited to consider the full text of section 21, including for these purposes sub-sections (3)-(5), if necessary with the benefit of legal advice. Lord Justice Leveson invites you to make any such claim in writing and as soon as possible, addressed to the Solicitor to the Leveson Inquiry into the Culture, Practices and Ethics of the Press, [ ].

Furthermore, Lord Justice Leveson has power under section 19(2)(b) of the Act to impose restrictions in relation, amongst other things, to the disclosure or publication of any evidence of documents given, produced or provided to the Inquiry, including evidence produced under section 21. Lord Justice Leveson will be considering the exercise of his powers under

section 19 in any event, but if you seek to invite him to exercise those powers in respect of your evidence, including documentary evidence, or any part of it, you should set out your position in writing as soon as possible.

Finally, Lord Justice Leveson draws to your attention the provisions of section 22 of the Act which state that you may not under section 21 be required to give, produce or provide any evidence or document if you could not be required to do so if the proceedings of the Inquiry were civil proceedings in a court in the relevant part of the United Kingdom, or the requirement would be incompatible with a Community obligation. No doubt you will take legal advice as to the effect of this provision, but, in the spirit of openness and with the wish to ensure that all possible aspects of his Terms of Reference are fully considered, he invites you nonetheless to waive privilege in relation to any such document or evidence. Please therefore state in your response to this notice whether you are prepared to do so.

Yours sincerely

pp **Khaleel Desai**
**Assistant Solicitor to the Inquiry**

The Leveson Inquiry

culture, practices and ethics of the press

Royal Courts of Justice
Strand, London
WC2A 2LL

Solicitor to the Inquiry
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Solicitor.Levesoninquiry@tsol.gsi.gov.uk
www.levesoninquiry.org.uk

**Strictly personal for:**
Mr. S Anderson-Dixon
Managing Director
Birmingham Evening Mail
Floor 6, Fort Dunlop,Fort Parkway
Birmingham, B24 9FF

4 October 2011

Dear Mr. Anderson-Dixon,

**Leveson Inquiry into the culture, practices and ethics of the press**

It may have come to your attention that an Inquiry has been set up under the Inquiries Act 2005, chaired by the Rt Hon Lord Justice Leveson, following the recent "phone hacking" public scandal. Under Part 1 the Inquiry will inquire into the culture, practices and ethics of the press. Its Terms of Reference are available on-line at http://www.levsoninquiry.org.uk Lord Justice Leveson's expectation is that witnesses will be willing to assist his Inquiry by providing both a statement and documents voluntarily and in the public interest.

However, given the timescales within which he is has been asked to operate and the desirability of ensuring, with limited exceptions, consistency of approach to potential witnesses, he has decided to proceed in a formal manner using the powers conferred upon him by statute. No discourtesy is of course intended by this.

**Notice under section 21(2) of the Inquiries Act 2005**

Under section 21(2) of the Inquiries Act 2005[1], read in conjunction with the Inquiry Rules 2006 (S.I. 2006 No 1838)[2], Lord Justice Leveson, as Chairman of the Inquiry, has power to require a person, within such period as appears to him to be reasonable, to provide evidence to the Inquiry panel in the form of a written statement, and/or to provide any documents in his custody or under his control that relate to a matter in question at the Inquiry.

Lord Justice Leveson has determined that it is appropriate, in view of his Terms of Reference and his investigatory obligations, that you should at this stage be required to provide any documents in your custody or under your control as more specified below.

The documents you should provide to the Inquiry Panel should relate to the following matters or issues:

(a) Any current training materials, guidance, practices, codes of practice, code of conduct, handbooks or policies on, or bearing upon, any of the following:

[1] http://www.legislation.gov.uk/ukpga/2005/12/contents
[2] http://www.legislation.gov.uk/uksi/2006/1838/contents/made

a. Sources;
b. Use of sources
c. Use of private detectives;
d. Checking of sources;
e. Payment of sources;
f. Regulation of Investigatory Powers Act 2000;
g. Data Protection Act 1998;
h. Computer Misuse Act 1990;
i. Editorial policy (limited to matters within the scope of the inquiry);
j. Oversight of editorial policy (limited to matters within the scope of the inquiry);
k. Editorial guidance (limited to matters within the scope of the inquiry);
l. Editorial decision making (limited to matters within the scope of the inquiry);
m. Compliance (limited to matters within the scope of the inquiry);
n. Risk register (limited to matters within the scope of the inquiry);
o. Internal Inquiries into phone hacking and/or computer hacking and/or "blagging" and/or bribery and/or corruption.

(b) Any past training materials, guidance, practices, codes of practice, codes of conduct, handbooks or policies on, or bearing upon, any of the following (you need not go back before 1 January 2005):

a. Sources;
b. Use of sources;
c. Use of private detectives;
d. Checking of sources;
e. Payment of sources;
f. Regulation of Investigatory Powers Act 2000;
g. Data Protection Act 1998;
h. Computer Misuse Act 1990;
i. Editorial policy (limited to matters within the scope of the inquiry);
j. Oversight of editorial policy (limited to matters within the scope of the inquiry);
k. Editorial guidance (limited to matters within the scope of the inquiry);
l. Editorial decision making (limited to matters within the scope of the inquiry);
m. Compliance (limited to matters within the scope of the inquiry);
n. Risk register (limited to matters within the scope of the inquiry).
o. Internal Inquiries into phone hacking and/or computer hacking and/or "blagging" and/or bribery and/or corruption.

(c) Any disciplinary action taken by or on behalf of the company in the period 1 January 2005 to the date of this notice to enforce the company's ethical and/or professional standards in relation to journalism and/or editing and/or use of sources of information.

(d) Any documents recording or relating to fees or expenses paid to private investigators, police, public officials, mobile phone companies or others with access to the same (you may exclude official sources such as the Associated Press but must state which official sources you are excluding) in the period from 1 January 2005 up to the date of this notice.

(e) Any documents recording or relating to the payment of bonuses or other performance incentives to editors, sub-editors or journalists and / or the qualifying requirement/s for such payments.

(f) Any minutes of board meetings at which matters within the scope of this inquiry were discussed in the period from 1 January 2005 up to the date of this notice.

The Inquiry will be assisted if the documents which you provide in response to this notice are accompanied by an organised written list, with an electronic copy, preferably in Microsoft Word format.

For the avoidance of doubt, the word "document" is used in this notice in the sense defined by CPR Part 31.4, namely that a "document" means anything in which information of any description is recorded.

The terms of this formal notice should not necessarily delimit the evidence, including documentary evidence, which you provide to the Inquiry. It may well be that you can give important additional evidence beyond the four corners of the statutory requirements being imposed on you by this notice: if you can, you are encouraged to do so in line with the general invitation extended by Lord Justice Leveson during the course of his opening remarks on 28th July 2011.

Lord Justice Leveson is required under his Terms of Reference to complete his report on the matters or issues under Part 1 of the Inquiry within 12 months. With this in mind, and having regard also to the scale and scope of his foregoing requirements of you, he has determined for the purposes of section 21(2) of the Inquiries Act 2005 that you should comply with this notice by **4pm on Friday 11th November 2011**.

Lord Justice Leveson is also directed by law to explain to you the consequences of failing to comply with this notice. He therefore draws to your attention the provisions of section 35(1) of the Inquiries Act 2005 which make it a criminal offence to fail without reasonable excuse to do anything which is required by a notice under section 21. He wishes to make to clear that all recipients of section 21 notices are having their attention drawn to this provision, since it is a formal legal requirement.

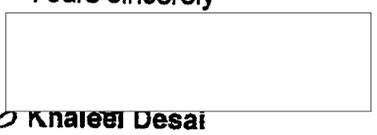
He is also directed by law to indicate to you what you should do if you wish to make a claim under sub-section (4) of section 21, namely a claim that you are either unable to comply with this notice at all, or cannot reasonably comply with this notice within the period specified or otherwise. You are invited to consider the full text of section 21, including for these purposes sub-sections (3)-(5), if necessary with the benefit of legal advice. Lord Justice Leveson invites you to make any such claim in writing and as soon as possible, addressed to the Solicitor to the Leveson Inquiry into the Culture, Practices and Ethics of the Press, c/o Royal Courts of Justice, Strand, London, WC2A 2LL.

Furthermore, Lord Justice Leveson has power under section 19(2)(b) of the Act to impose restrictions in relation, amongst other things, to the disclosure or publication of any evidence of documents given, produced or provided to the Inquiry, including evidence produced under section 21. Lord Justice Leveson will be considering the exercise of his powers under section 19 in any event, but if you seek to invite him to exercise those powers in respect of your evidence, including documentary evidence, or any part of it, you should set out your position in writing as soon as possible.

Finally, Lord Justice Leveson draws to your attention the provisions of section 22 of the Act which state that you may not under section 21 be required to give, produce or provide any evidence or document if you could not be required to do so if the proceedings of the Inquiry were civil proceedings in a court in the relevant part of the United Kingdom, or the requirement would be incompatible with a Community obligation. No doubt you will take legal advice as to the effect of this provision, but, in the spirit of openness and with the wish to ensure that all possible aspects of his Terms of Reference are fully considered, he invites you nonetheless to waive privilege in relation to any such document or evidence. Please therefore state in your response to this notice whether you are prepared to do so.

For the avoidance of doubt, this notice only covers one aspect of the Terms of Reference and, as the Inquiry moves into other areas, it may well prove appropriate to serve further section 21 notices.

Yours sincerely



pp **Khaleel Desai**
**Assistant Solicitor to the Inquiry**

**Financial Dealings for Journalists Policy**

Trinity Mirror plc

**Purpose**

To provide guidance to journalists to avoid conflicts of interest between their personal financial and property dealings and the carrying out of their professional duties. This should also be read in conjunction with the Standards of Business Conduct policy.

**Scope**

To all established and temporary journalists, Editors and freelancers.

**Statement**

National newspapers

National newspaper Editors, Deputy Editors, Regional Editors of national newspapers and journalists who write on financial issues in national newspapers should not own shares in listed or quoted companies other than in Trinity Mirror plc.

All national newspaper Editors, Deputy Editors and financial journalists must disclose all listed or quoted company shares they currently own to their managing director within 28 days and arrange for the shares to be sold within three months (save shares in Trinity Mirror plc).

If any national newspaper Editor, Deputy Editor or financial journalist inherits any shares in a listed or quoted company they shall disclose the identity of those shares to their managing director and within three months of the transfer of the shares to them by the personal representatives arrange for them to be sold.

All Newspapers

All journalists are bound by the Press Complaints Commission's code and will have it, together with the other rules set out here, incorporated as part of their contract of employment if and in so far as it could be said not to be so already. For the avoidance of doubt, clause 4.14 is not restricted to financial journalists but includes all journalists and clause 4.14 (paragraph 2) is deemed to include companies as well as shares or securities.

The Board of Trinity Mirror may vary these rules and in special circumstances may allow share ownership which would otherwise be prohibited to be retained provided that it is satisfied that the shares are under the control of a reputable fund manager, the identity of whom should be agreed in advance by the Company Secretary, under a full discretionary client agreement.

This policy is not intended to stop or interfere with the independent decision-making by members of journalists' families. However, any attempt to evade these rules by trading or holding securities in the names of family members or others, will be treated as a breach of this policy.

**Responsibility**

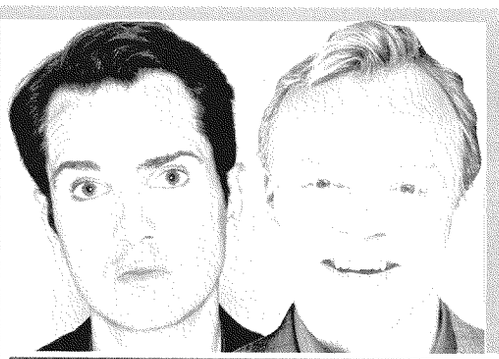
Individual managers are responsible for ensuring that this policy is applied within their own area. Any queries on the application or interpretation of this policy must be discussed with the Human Resources department prior to any action being taken.

The Company Secretary has the responsibility for ensuring the maintenance, regular review and updating of this policy. Revisions, amendments or alterations to the policy can only be implemented following consideration and approval by the Managing Director.

(Paul Vickers, Company Secretary, 25th February 2000)

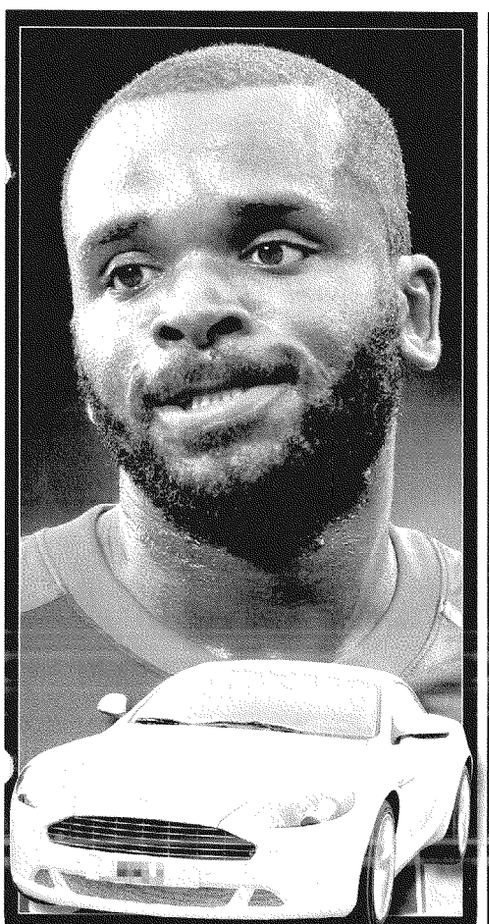
BIRMINGHAM Mail

FRIDAY, OCTOBER 7, 2011 www.birminghammail.net 45p



Win VIP tickets to Rock With Laughter

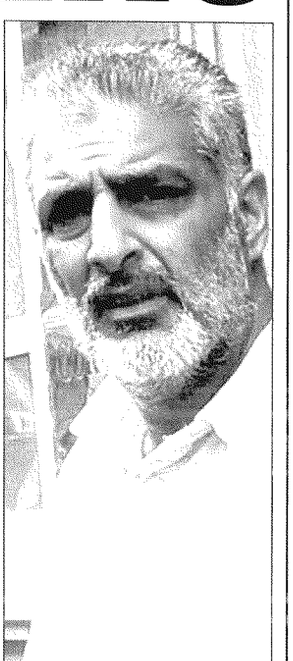
PLUS 16 PAGES OF WHAT'S ON



# Villa star Bent in £63k car bill fight

FULL STORY: PAGE 7

# RIOT HERO DAD TO FACE COURT



Hailed a hero: Grieving father Tariq Jahan urged people not to seek revenge following the death of his son Haroon.

## Charged over alleged road rage incident

EXCLUSIVE

By Jeanette Oldham

**THE grieving dad credited with staving off potential race violence after his son was run over and killed in August's riots has been charged in connection with an alleged road rage incident.**

Tariq Jahan became a national hero when he urged people not to seek revenge after Haroon, aged 21, was mown down and killed in Birmingham at the height of the disorder.

The 47-year-old, of Winson Green, is due to appear at Birmingham Magistrates' Court charged with one count of inflicting grievous bodily harm without intent.

FULL STORY: PAGE 5

# DAD HAILED A HERO FOR STOPPING CITY RIOTS CHARGED WITH ASSAULT

EXCLUSIVE
By Jeanette Oldham

**THE bereaved dad credited with staving off potential race violence after his son was run over and killed in August's riots has been charged in connection with an alleged road-rage incident.**

Tariq Jahan, 47, became a national hero when he urged people not to seek revenge after his 21-year-old son Haroon was mown down and killed in Birmingham at the height of the riots.

Haroon was one of three young Muslims who died when they were hit by a car which mounted the pavement while they were trying to protect local shops from looters.

Now in an extraordinary twist, it has emerged that Haroon's father has been arrested and charged with seriously assaulting a male bystander during a suspected road-rage incident.

Mr Jahan, from Winson Green, is accused of assaulting the alleged victim on Factory Road, Handsworth, on July 6 – a month before his son was murdered.

It is claimed the victim suffered a broken jaw and lost two teeth in the alleged assault.

He was arrested soon after the incident and bailed pending further police inquiries.

He was charged with inflicting grievous bodily harm without intent a week ago at Steelhouse Lane police station in the city centre.

The grieving dad is due to attend a first hearing in connection with the charge at Birmingham Magistrates' Court on Monday.

Mr Jahan's son Haroon was killed alongside two brothers – Shazad Ali, aged 30, and Abdul Musavir, aged 21 – when they were hit by a car during riots in Winson Green in the early hours of August 10.

The dad found his son lying in a pool of blood, and tried in vain to save his life, performing CPR until paramedics arrived.

Just two days after Haroon's death, a visibly grief-stricken Mr Jahan gave a dignified and impassioned speech on TV calling for people of all faiths to abandon violence, and warning fellow Muslims not to spill blood in the name of his son.

He said: "I lost my son. Blacks, Asians, whites – we all live in the same community. Why do we have to kill one another? Why are we doing this? Step forward if you want to lose your sons. Otherwise, calm down and go home."

Mr Jahan won praise across religious divides, and was commended by West Midlands Police Chief Constable Chris Sims for his work to avoid interracial violence.

Nine men have been charged in connection with the murders, and police are continuing to investigate the deaths.

The much respected dad received a series of accolades this week.

He was honoured at the Pride of Britain Awards in London, where he was presented with an award by boxer Amir Khan, and was named the *Birmingham Mail's* latest Local Hero.

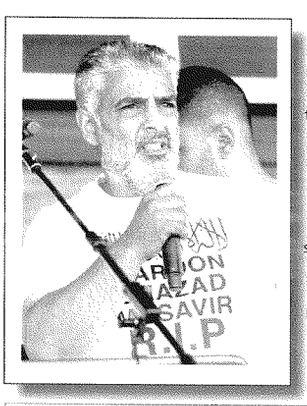
Millions of TV viewers watched this week as he received a standing ovation at the Pride of Britain Awards, as he was recognised for the heartfelt appeal for peace he made after his son's death.

It is understood to have been the first public appearance he had made since burying his son.

Since the riots Mr Jahan has said he and his family have been trying to get their lives back to normal, and they have been deeply touched by the support they have received from the public.

He said: "The community has been fantastic. I can't compliment them enough. The letters, the cards and the memorials that have been left are unbelievable. It opened my eyes. It's comforting to know so many people remember and think about the three boys."

A West Midlands Crown Prosecution Service spokesman confirmed that Mr Jahan is due to appear at court charged with one count of inflicting grievous bodily harm without intent.



Moment in the spotlight: Tariq Jahan after the death of his son Haroon and, left addressing a community solidarity rally held at Summerfield Park, in Birmingham.

## Louie dances into store

DANCING television star Louie Spence will be signing copies of his autobiography 'Still Got It, Never Lost It!' at Selfridges in Birmingham's Bullring shopping centre later today. The star of Pineapple Dance Studios and Showbusiness will be meeting fans on the third floor of the store from 6pm.

## Fire engine in road accident

AN INVESTIGATION is continuing today into a crash between a car and a fire engine on route to an emergency in Birmingham.

The car driver was checked over at the scene of the collision at the Wake Green Road junction with Yardley Wood Road in Moseley before being taken to hospital.

His injuries were not thought to be too serious.

The junction was closed for several hours while fire service investigators examined the scene.

The fire service has confirmed its engine was heading to an emergency when the accident happened at about 10.40pm on Wednesday.

A spokesman added: "The investigation is ongoing."

## Staff shock at DHL closure

WORKERS at a Midlands logistics centre set to close at the end of the year have said they are "devastated and saddened" by the decision.

Unions for the workforce at DHL in Droitwich said members were shocked by the closure which would result in considerable job losses. The company is moving its operations to Somerset following the termination of a contract with supermarket chain Morrisons.

Union officer Simon Powell, of Unite, said: "This proposed closure is a massive blow. We owe it to our members and their families to do everything in our power to support them."

## SHEILA'S COMEDY

COMEDIENNE Sheila M performs at the Patrick Kavanagh pub in Moseley on Friday October 14 at 8.30pm. For details see www.sheila-m.com

# Inside today

WEDNESDAY, OCTOBER 12, 2011





## Get in touch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**Production** Tel: 0121 234 5284
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# 5 KIDS' HOMES UNDER THREAT

By Alison Dayani
HEALTH CORRESPONDENT

**FIVE council-run children's homes and 170 jobs are under threat from closure under cash-saving plans, union leaders have revealed.**

GMB union managers said they have been warned by Birmingham City Council that a 188 Notice of redundancies will go out today regarding five Birmingham children's homes and the Contact and Escort children's service.

Children's residential homes at risk of closure include two for disabled youngsters.

The homes under threat are believed to be Camborne House, Aston; Charles House, in West Heath, plus homes in Chamberlain Road, Kings Heath; Fountain Road, Edgbaston and Millmead Road, Woodgate.

Contacts and escorts, who chaperone children during visits to parents when they cannot be left alone, are also under threat in the move, according to the union.

Documents disclosed to the *Mail* said proposals were looking at reducing the number of children in care placements while increasing numbers of foster parents and expanding work with the private sector instead.

Birmingham City Council must save £212 million this year and further budget plans for next year are to be announced today.

Geoff Matthews, GMB union branch president for Birmingham, said: "The council has gone mad. All these children are vulnerable, especially ones at the two homes for disabled children.

"The union has been told by the council that it plans to close these five homes and is entering into a consultation.

"It is the children who will suffer.

"There are 130 staff working at the homes and 40 as contacts and escorts whose jobs could go."

Birmingham City Council has 20 Children's Homes plus another six for children with disabilities.

Camborne House and Charles House both care for children with a range of disabilities including Down's Syndrome, autism and behavioural problems.

A city council spokesman said: "No final decisions have yet been taken on any proposals, fuller details of which will be announced at the launch of our 2012/13 budget consultation today.

"The proposals for looked-after children have been shaped to make the service more efficient and effective for young people because research shows that children in care traditionally have poorer life outcomes than those who are placed within families."

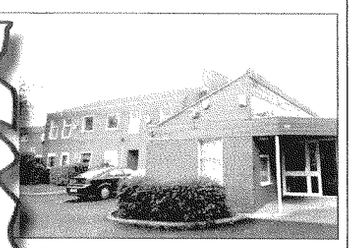
If employees are at risk of redundancy, the Council is required by law to issue a Section 188 notice to lists all posts that will potentially be deleted.

■ What do you think? Email letters@birminghammail.net

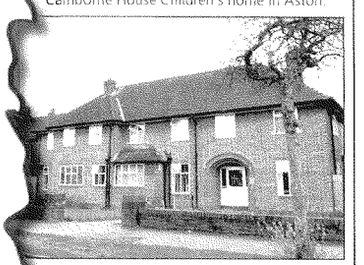
**Emails disclosed to the Birmingham Mail read:**

**A Section 188 notice will be being issued soon. It has implications for the children's homes and we wanted to be able to tell them first before the notice. All the usual consultations and processes will be followed once the formal notice is issued.**
Children's Social Care Department

**This is about consultation and no decisions have been made.**
**It is likely that we will be including proposals to focus on a children in care placement strategy which will aim to review and reduce the number of placements of children in care in both the external and internal sector, increase the number of foster carers for children and expand our relationship with the private provider sector. This will have implications for our residential homes.**
Children, Young People and Families Department

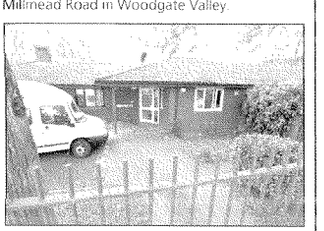


Camborne House Children's home in Aston.



Chamberlain House in Kings Heath.

Millmead Road in Woodgate Valley.



Fountain Road Children's Home in Edgbaston, and Charles House.

# Cricket brothers' ride calls in at Edgbaston

TWO brothers were calling in at Edgbaston today as part of a charity bid to cycle between the UK's 20 county cricket clubs.

Chris and David Adams, both former professional cricket players, are embarking on the exhaustive ride to raise cash for research into Leukameia, the condition their father John is fighting.

The duo from Lancashire in West Heath started the 868-mile challenge at Durham's ground in Chester-Le-Street last Friday and hope to finish at The Oval, home to Surrey, on October 21.

All proceeds from the ride, which famous cricketers are supporting, will go to Leukaemia and Lymphoma Research.

## STYLE, DIET AND LIFE TIPS

**WOMEN** can pick up tips from the experts with a day of weight loss and style advice in Birmingham.

Workshop 999 at Bank restaurant, Brindleyplace, on Saturday, from 9.30am-4pm features personal styling, diet tips and life coaching. Places cost £75 and can be booked on 07966 381361.

# Pier tragedy family thank lifeboat staff

THE heartbroken family of young Midland woman who died when her wheelchair plunged off a pier in to the sea have personally thanked those who tried to save her.

Claire Perkins is believed to have fallen 10ft into the sea from a historic harbour while waiting for a cruise boat at The Cobb in Lyme Regis, Dorset, with her parents, Paula and Mark, on Friday.

Fisherman Harry May and RNLI personnel from the nearby lifeboat station dived in to the water in a desperate battle to free her, eventually bringing her unconscious body to the surface after a 30-minute struggle. She died later in hospital.

Plunged: Claire Perkins.

It is understood her father Mark made an emotional phone call to Mr May on Monday, thanking him for his efforts to save 20-year-old Miss Perkins, from Solihull, who had developed dementia in her teens through a rare medical condition that stopped her from processing cholesterol.

Her grandmother, aunt and uncle also visited the area to thank Mr May for his efforts and delivering a letter of thanks to the volunteer lifeboat crew.

Mr May said: "They wanted to come down here to see where the tragedy happened and brought a letter for the lifeboat crew.

"The police rushed the grandmother down under high speed escort all the way from the Midlands. Claire was alive when her grandmother got to her and she was able to say goodbye."

# Kooks fans get new gig date

BIRMINGHAM music fans have been told to keep hold of their tickets for a gig cancelled over the weekend.

The Kooks postponed their O2 Academy gig on Saturday night due to singer Luke Pritchard feeling unwell.

It now takes place on Saturday, December 17, and tickets remain valid.

COMPLAINANT NAME:
**Ms Sue Turner**

CLAUSES NOTED: 3, 5, 8

PUBLICATION: Birmingham Mail

COMPLAINT:

Ms Sue Turner, Chief Executive of the Birmingham and Solihull Mental Health NHS Trust, complained to the Press Complaints Commission that articles in the Birmingham Mail and Birmingham Mail Extra of 20 February and 25 February 2010, headlined "Suicide pact" and "Our suicide pact" respectively, were intrusive in breach of Clause 3 (Privacy), Clause 5 (Intrusion into grief or shock) and Clause 8 (Hospitals) of the Editors' Code of Practice.

The complaint was not upheld.

The front-page articles reported that three patients at a Birmingham psychiatric unit, Main House, had - several days before publication - attempted suicide over concerns about the future of the unit. They had subsequently been informed that Main House was indeed to be closed down, which prompted the newspapers' articles. The articles were accompanied by pixellated photographs of the patients being informed of the decision - said in the coverage to have been "supplied by the patients themselves via their psychiatrist" - in which they were shown to be distraught at the news.

The complainant said that the residents were extremely vulnerable adults to whom the Trust owed a duty of care: they were not in a position to give any clear consent for the taking and publication of these photographs, which had been taken inside Main House. The complainant argued that the newspaper should have obtained consent from not only the patients but also their respective carers, consultants and/or relatives before publication. Indeed, while there is some assumption under the Mental Capacity Act 2005 that patients have capacity to make their own

choices, it is not automatically the case that they do and the newspaper should have sought further guidance from appropriate individuals. The Trust was now unable to assess retrospectively whether the patients had the capacity to make decisions about the photographs, but considered that they would not have had the capacity to make such a decision due to their vulnerability.

The complainant said that the photographs had also been taken in breach of patient confidentiality by a GP who worked with the patients once a week, and was not their consultant or primary carer. He had been dismissed following a disciplinary hearing and the case had been referred to the General Medical Council.

The complainant stated that the Trust had received a number of complaints about the articles from the family of one of the patients and another former service user. The former service user said that she had been identified as her car had been recognised following the publication of a photograph of the exterior of Main House. The Trust was prepared to contact the concerned parent to support its complaint, but was worried about causing additional stress by doing so.

The newspapers said that the closure of Main House was a major local issue. When they received the photographs of the distressed patients they gave careful consideration to their publication. They felt justified in publishing for the following reasons: the photographs had been taken with the knowledge of the patients; they had been taken by a medical professional working with the patients; the patients, who were all adults, had given their consent for publication and were actively keen for them to be shown; and a parent of one of the patients had supported the use of the images. The newspapers added that they had taken steps to protect the identities of the patients by pixellating their faces.

The newspapers said that they had given a voice to mental health patients who said that they were being ignored and distressed by the sudden closure of the unit midway through a public consultation. They had received no complaints from the patients or their families directly. They also said that - given the small size of the photograph of Main House - it would not have been possible to identify registration numbers of the cars.

DECISION:
Not Upheld

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ADJUDICATION:

In making this decision the Commission wished to make clear that it took into consideration the many special circumstances of the case. While the Commission had not received a complaint from the individuals at the centre of the coverage, it decided that it was able to investigate a complaint from the NHS Trust, which was certainly a relevant party in the matter. In making this ruling, the Commission had to be particularly aware of the potentially competing positions of the Trust and the patients themselves, who were apparently content for publication to go ahead.

The protection of vulnerable individuals is at the heart of the Editors' Code and the question of intrusion in regard to patients at a mental health facility was clearly a serious matter. An attempt by the newspapers to ignore - or bypass - the terms of the Code, and compromise the welfare of patients, would be the subject of vigorous censure by the Commission. However, the Commission did not believe that the newspapers had made any such attempt on this occasion.

The key consideration for the Commission related to the question of appropriate consent. In normal circumstances, editors are rightly able to rely on the consent of affected parties to publish private information about them. In this case, the three patients at Main House had provided explicit consent (and apparent encouragement) for the publication of the images. However, the complainant had argued that this consent was insufficient, due to the vulnerable nature of the patients and concerns over their ability to make an informed decision.

This was an important point and one which the Commission weighed heavily. There were also two other significant factors, relating to the photographs, for it to bear in mind: they had been provided by a doctor, who was employed by the facility; and they had been pixellated by the newspapers, to prevent identification of the patients (who had also not been named in the articles). There was a final issue relating to the public interest inherent in the story, which reported the closure of a mental health unit and its impact on the patients who lived there (which had even led the patients apparently to seek to take their own lives).

At this stage, it was not possible for the Commission (or indeed the Trust) to establish the specific capacity of the patients to offer informed consent about publication. The

Commission did recognise, though, that legitimate concerns would exist about the patients' capacity in this area. This was something which the newspapers had a responsibility to take into account. The Commission considered that patients' consent on its own may not be sufficient always to justify publication.

In the Commission's view, it was the existence of the other factors that tipped the balance in favour of the newspapers' decision to publish: the involvement of the doctor; the decision to pixellate; and the public interest in the story as a whole. The Trust's position was that the doctor, who had provided the images, had acted inappropriately and in breach of his own professional standards. However, it did not necessarily follow that the newspapers, in making use of the images, had acted in breach of their own professional standards. At the time of publication, the newspapers had to be able to give weight to the fact that the image had been provided by a medical professional, who was involved in the care of the patients. In any case, the newspapers had not published the photographs unaltered, but had ensured that the patients' identities were not revealed to a wide audience.

In all of these circumstances taken together, the Commission did not consider that the newspapers' actions represented a failure to respect the private lives of the patients in breach of either Clause 3 (Privacy) or Clause 8 (Hospitals) of the Code. This was not an easy decision, but the Commission in the end found that the newspapers had managed to balance their duty to behave responsibly towards vulnerable individuals with the need to cover a story of important public interest.

Clause 5 refers to publication being "handled sensitively" at times of grief or shock. This clause normally applies to the aftermath of a death or serious accident, which was not the case here. The Commission did not consider that the newspapers had handled their coverage of what was a distressing time for the patients in an insensitive way.

Finally, the Commission did not consider that the publication of a photograph of the outside of Main House, which showed a number of cars in the car park without clearly showing their registration numbers, represented an intrusion into the private life of a former service user in breach of Clause 3.

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## Inside today

FRIDAY, OCTOBER 22, 2010







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# NEW LIMIT ON TEMPLE VISITS

By Neil Elkes
LOCAL GOVERNMENT CORRESPONDENT

**A SIKH temple has been told it can only have 60 worshippers at a time following furious complaints from neighbouring residents about coach loads of visitors blocking roads.**

The limit on worshippers was imposed by city planners as they approved extensions to the Singh Sabha Gurdwara Temple in Somerset Road, Handsworth Wood.

It means that the Temple, which is a converted pub, will get a new entrance, toilets, prayer hall and a new dome on the roof.

But neighbours spoke out against the scheme complaining that frequent celebrations and wedding receptions create havoc for locals with hundreds of visitors. Next door neighbour Jaskarn Badesha complained that the extension is also too close to his home.

He said: "I will suffer a loss of light and privacy and the prayer hall will limit how I can enjoy my property."

Another neighbour David Wright added: "The Temple says that only 20 people at a time use it during the week and up to 60 at weekends and festivals, but I have known three or four times that.

"They turned up to weddings in coaches. It is dangerous and noisy."

A spokesman for the Temple said: "This is needed for local people. Most live nearby and walk to the building.

"This is the only one of its kind in Handsworth Wood."

Although supportive of the extension, which will make the former pub more suited to worship, particularly for women, councillors were sympathetic to the residents over the numbers.

Coun Mike Sharpe (Lab, Tyburn) said: "I have been to a few Sikh wedding receptions and they are big affairs, it's not unusual to have 1,500 guests.

"But this building is not cut out for that."

Coun Bob Beauchamp (Cons, Erdington) added: "When this was a pub I bet there was often more than 60 people inside.

"This does not seem that unreasonable."

The committee agreed to impose the limit as part of the approval and warned the Temple that they would be checking.

DM21101OYATE-02

No planning: Scaffolding surrounds the house in Ladywood Road, Four Oaks, which was damaged in a fire.

# Five-year restoration rapped

CITY planners have urged the owner of a rare and historic Sutton Coldfield home to complete repair work started following a fire five years ago.

The listed building at 22 Ladywood Road, in Four Oaks, has been wrapped in scaffolding for several years while owner Ian Siu carries out restoration work, much of it without planning consent.

It was built in 1902 by WH Bidlake, who founded the Birmingham School of Architecture and is viewed as an important example of the Arts and Crafts design style.

Over the last decade the council has launched enforcement action over the condition of the house and gardens five times, twice since the fire.

Now Mr Siu has sought retrospective planning approval for some of the restoration work already carried out.

Conservation groups, including the Victorian Society and English Heritage, have described the building's condition as 'deplorable and regrettable', and demanded special attention be paid so that no more original features are altered or lost.

They have been particularly scathing that original brickwork and window frames have been replaced.

English Heritage said: "The works include extensive removal of historic fabric which would have been considered both unnecessary and undesirable had it been applied for prior to implementation."

Coun Maureen Cornish (Cons, Four Oaks) said: "The condition of this building and the amount of time being taken is of concern to the residents in the area.

"It has dragged on for years and we need this to end soon."

# Bungalows plea as £100m estate plan is approved

**THE architects of a major housing estate development have been asked to consider building more bungalows for the city's elderly and disabled.**

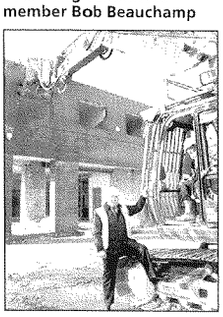
**The plea came as the £100 million revamp of the Lyndhurst Estate, in Erdington, was given planning permission.**

**It means that one of the city's most run-down 1960s-built housing estates will finally get the long awaited regeneration.**

**Already two of the estate's seven landmark towers have been demolished while the remaining blocks are being renovated.**

**The regeneration scheme, backed by a £100 million Private Finance Initiative funding, will see 316 new houses, new public open space, a youth centre and health centre built.**

**Planning committee member Bob Beauchamp**



Revamp: Housing chief Coun John Lines oversees the demolition of the Lyndhurst pub.

**(Cons, Erdington) said: "This is the most important development as far as this side of the city is concerned.**

**"The Lyndhurst, when it was built more than 40 years ago, was held up as a shining example of urban development and attracted visitors from all over Europe.**

**"But it was poorly designed and deteriorated. This redesign will address those faults. The towers have already been given a beautiful refurbishment and this will complete the estate's revival."**

**The planning committee unanimously supported the scheme there was one note of caution.**

**Coun Mike Sharpe (Lab, Tyburn) said: "I do welcome this because if you give people decent houses, they enjoy a better quality of life and live longer. But if we are building decent houses surely we need a few bungalows for wheelchair users and the elderly."**

**OUR SAY: PAGE 14**

**Commission's decision in the case of**
**Siu v Birmingham Mail**

The article reported that city planners had urged the complainant, who was the owner of a rare and historic Sutton Coldfield home, to complete repair work. The complainant said that the article was in breach of Clause 1 (Accuracy) and Clause 3 (Privacy) of the Editors' Code.

The Commission initially addressed the complainant's concerns under Clause 1 (Accuracy), which sets out that the press must take care not to publish inaccurate or misleading information.

The complainant said that the claim he had 'carried out restoration work, much of it without planning consent' was inaccurate, denying that any work at the property had been carried out without planning permission. Although he had sought retrospective Listed Building Consent (LBC), he said that this was quite separate to planning permission. Unlike planning permission, whether or not one required LBC was not clear cut, but depended upon one's interpretation of the terms 'repair' and 'replacement'. He explained that consent had been sought following a difference of opinion between himself and the planning officer, but that his application was never in any danger of being refused. In any case, the subject of the application constituted only a small proportion of the work he had done on the house. Accordingly, he said the claim would have been misleading to readers.

The Commission noted that, while the newspaper argued that the effect of an alleged breach was the same, it had accepted that there was a difference between planning consent and LBC. Although the Commission did not consider itself in a position to determine which of the two amounted to a more serious allegation, it was satisfied that the complainant had established a 'significant inaccuracy' which required correction as per the terms of Clause 1 (ii). The Commission noted that the newspaper had offered to publish a clarification which made clear to readers that the alleged breaches were of LBC. In the Commission's view, this represented a reasonable and proportionate response to the inaccuracy. Although it noted that the complainant had refused this offer, the Commission trusted that it would remain open to him should he change his mind.

The Commission then addressed the complainant's concern that the article incorrectly suggested that 'much' of the work carried out had been without consent. He said that, given this was the first occasion that he had sought retrospective LBC, readers would have been misled into believing that he had not obtained consent for a number of different works to the property. In its defence, the newspaper said that the planning document (which had formed the basis for the article) referred to 'extensive removal of historic fabric which would have been considered both unnecessary and undesirable had it been applied for prior to implementation'. With the above in mind, the Commission was satisfied that, on balance, the reference would not have been 'significantly misleading' to readers such as to warrant correction under Clause 1 (ii).

The complainant also expressed concern about the claim that the 'council had launched enforcement action over the condition of the house and gardens five times'. While he acknowledged that enforcement action may have been suggested to the committee, he argued that – as he had never received any formal notification of the action – it had clearly not advanced to any material stage. The Commission noted that, although subsequently closed, the planning document did list 5 cases of enforcement action against the complainant. Given that these actions appeared to have been officially processed, the Commission did not consider that the reference to enforcement action having been 'launched' amounted to a breach of the Code.

The complainant's final concern under Clause 1 related to the claim that 'WH Bidlake founded the Birmingham School of Architecture'. He said that the claim was inaccurate as Mr Bidlake was in fact an assistant to the first Director, Mr Ball. In its defence, the newspaper provided evidence from a local historian to suggest that, by virtue of Mr Bidlake's role as a pioneer of teaching at the school, he did have a claim to be the founder. While the Commission noted the parties' opposing positions on this issue, it did not consider that it would be able to come to a view on whether the claim had been inaccurate under the terms of the Code.

While – save for the reference to planning consent – the Commission could not conclude that the article was in breach of Clause 1, it noted that the newspaper had offered the complainant the opportunity to respond to the article, by way of a letter for publication. Although the complainant had refused this offer, the Commission made clear that, should he wish to take it up in the future, it would be happy to assist in the drafting of a mutually acceptable wording.

The Commission then addressed the complaint under Clause 3 (Privacy). Primarily, the complainant was concerned that, without his consent, the newspaper had published his name and address in the article. However, he also expressed concern that the article had included a large photograph which showed him outside his property. He believed that the photographer had trespassed onto his land in order to obtain the image.

The Commission made clear that it does not generally consider an individual's name or address to be a matter which inherently concerns their private lives. In this case, the details had been put into the public domain as a result of their inclusion in the planning officer's report. In these circumstances, the Commission could not conclude that there had been an intrusion into the complainant's private life under the terms of Clause 3.

The Commission then considered whether the inclusion of a photograph of the complainant outside his home constituted a breach of Clause 3 of the Code. Clause 3 (iii) states that it is unacceptable to photograph individuals in private places without their consent and clarifies that a private place is one where there is a reasonable expectation of privacy. The newspaper had provided photographs which satisfied the Commission that, although gated, the property was visible from a public road. In this instance, the complainant did not appear to be engaged in a private activity, and indeed, was not easily identifiable from the image in question. With all of the above in mind, it did not consider that the complainant had established a breach of Clause 3 of the Editors' Code.

**Reference No. 105333**