

## Chronology of legal training and updates

	<b>Details</b>	<b>Date</b>
<b>1.</b>	Guardian Advanced Legal Training (25 April 2005), Observer Advanced Legal Training (14 June 2005) and Guardian & GU Basic Libel Training (29 July 2005)	25 April 2005, 14 June 2005 & 29 July 2005
<b>2.</b>	Observer legal training on "legal pitfalls in investigations"	18 April 2007
<b>3.</b>	Nuala Cosgrove legal refresher	2 May 2007
<b>4.</b>	Nuala Cosgrove, Jan Johannes and Korieh Duodu legal refresher re: libel, privacy, subterfuge and data protection	18 to 27 June 2007
<b>5.</b>	GU Moderators legal training	21 June 2007
<b>6.</b>	Legal refresher for moderators	20 August 2008
<b>7.</b>	Lunchtime legal session for key editorial staff	2 December 2008
<b>8.</b>	Lunchtime legal session for key editorial staff	4 December 2008
<b>9.</b>	Timothy Pinto (of Taylor Wessing) seminar on the liability of online publishers for user generated content	24 September 2009
<b>10.</b>	Legal briefing "White ties, tiaras & tantrums: the truth, the whole truth and nothing but the truth about defamation (starring Elton John and Liam Gallagher)"	3 November 2009
<b>11.</b>	Legal briefing "Wedding cake, sadomasochism and a walk down the street: a brief guide to privacy"	10 November 2009
<b>12.</b>	Legal briefing "Sex, lies and the internet - legal issues in the new wild west"	24 November 2009
<b>13.</b>	Legal briefing "Secrecy, security and super-injunctions - court reporting"	8 December 2009
<b>14.</b>	Media Law Training Session	26 January 2010
<b>15.</b>	Legal Refresher for G2, Sport and Weekend desks	7 April 2010
<b>16.</b>	Legal Refresher for G2, Sport and Weekend desks	28 April 2010
<b>17.</b>	Legal Refresher	16 September 2010
<b>18.</b>	Media Law Checklist (October 2010 version)	23 September 2010
<b>19.</b>	Pre-publication legal and ethical masterclass	24 November 2010
<b>20.</b>	Legal refresher on user-generated content	25 November 2010
<b>21.</b>	Gavin Irwin (of Dyers Chambers) seminar on Bribery Act	2 December 2010
<b>22.</b>	Legal Refresher (CiF)	10 March 2011
<b>23.</b>	Legal refresher: libel, privacy and contempt	24 March 2011
<b>24.</b>	Moderators' legal training	6 April 2011
<b>25.</b>	Bribery Act - Editorial briefing	14 July 2011

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**JOB DESCRIPTION**

**1. Job Title:** Director of Editorial Legal Services

**2. Department:** Editorial Legal Services

**3. Normal location:** London

**4. Responsible to (Job title):** Editor-in-chief, GNM

**5. Main purpose of job:** To lead the provision of legal support and advice to GNM publications and websites

**6. Main duties and responsibilities:**

- Management of in-house legal team
- Recruitment and management of external lawyers
- Pre-publication review
- Complaints handling
- Oversee and conduct litigation
- Advise on UK/EU regulatory and policy issues
- Provide regular updates and briefings to GNM board
- Identify and deliver legal training requirements for journalists
- Management of support staff
- Management of editorial legal budget

**7. Main contacts**

- Editor-in-chief, GNM
- Guardian, Observer and guardian.co.uk editorial departments
- Members of editorial legal team
- Director of commercial legal department

**8. Terms and Conditions:**

- Standard GNM terms and conditions of employment.
- 35 hours per week, Monday to Friday, 10am to 6pm, and otherwise as required, plus on-duty rota.
- 5 weeks holiday per annum.

**Drawn up by:** Alan Rusbridger

**Date:** October 17, 2008

This job description is a guide to the work you will be initially required to undertake. It may be changed from time to time to meet changing circumstances. It does not form part of your contract of employment and as your experience grows you will be expected to broaden your tasks, suggest improvements, solve problems and enhance the effectiveness of the role.

***THIS FORM SUMMARISES THE MAIN ASPECTS OF THE JOB BUT DOES NOT COVER ALL THE DUTIES THAT THE JOB HOLDER MAY HAVE TO PERFORM.***

**PERSON SPECIFICATION**

Knowledge & experience	Essential	Desirable
<input checked="" type="checkbox"/> Strong background in media law	X	
<input checked="" type="checkbox"/> Senior-level experience of pre-publication work and media litigation	X	
<input checked="" type="checkbox"/> Experience of managing a team	X	
<input checked="" type="checkbox"/> Experience of working in a fast-changing and high-pressure environment.	X	
<input checked="" type="checkbox"/> Strong academic qualifications	X	
<input checked="" type="checkbox"/> Up-to-date knowledge of media law	X	
<input checked="" type="checkbox"/> Understanding of multimedia journalism	X	X
<input checked="" type="checkbox"/> Knowledge and understanding of GNM's editorial values		
<b>Skills &amp; aptitudes</b>		
<input checked="" type="checkbox"/> Excellent interpersonal skills	X	
<input checked="" type="checkbox"/> Confident communicator	X	
<input checked="" type="checkbox"/> Able to build relationships with people at all levels	X	
<input checked="" type="checkbox"/> Able to lead and direct others	X	
<input checked="" type="checkbox"/> Good problem-solving skills	X	
<input checked="" type="checkbox"/> Able to prioritise work in a deadline-driven environment	X	
<input checked="" type="checkbox"/> High professional standards	X	
<b>Personality characteristics</b>		
<input checked="" type="checkbox"/> Flexible attitude	X	
<input checked="" type="checkbox"/> Calm under pressure	X	
<input checked="" type="checkbox"/> Able to deal with challenging situations	X	
<input checked="" type="checkbox"/> Structured and clear thinker	X	
<input checked="" type="checkbox"/> Approachable	X	

30/10/2009 16:02

**To:** EDITORIAL GNM  
**cc:** NIGHT LAWYERS, Noticeboard Legal@GNL  
**Subject:** Weekly Editorial Legal Newsletter - Not for publication

**Message:**

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Weekly Editorial Legal Newsletter - Not for publication

Contacting Editorial Legal Services

If you are having problems emailing us using your GoogleMail account, please try using the full address 'legal@guardian.co.uk'; you should then find that GoogleMail recognises the entry 'legal' on all future occasions.

Whenever contacting the legal dept. (whether by phone or email) please be sure to leave a telephone number so that the duty lawyer can contact you easily.

Training

The in-house series of training seminars for journalists begins on Tuesday 3 November with 'White ties, tiaras and tantrums - The truth, the whole truth and nothing but the truth about defamation'. The lunchtime session will be from 1.15 to 2.15pm in the Morning Conference Room, second floor, Kings Place. Places are limited so please RSVP to ash.hussain@guardian.co.uk if you would like to attend this or any other of the four sessions (10, 18 and 24 November). Further details about these sessions can be found on Spike <http://spike/content/16206>

Legal notices this week (Not for publication)

## GNM

Secretary of State for Justice, Jack Straw, has launched a consultation with the media and senior judges about super-injunctions. Gill Phillips is meeting him next week.

## Defamation consultation paper

The Ministry of Justice is considering whether to introduce a single publication rule for defamation. Currently each time an article is accessed on the internet it is treated as a fresh publication. This means that for as long as an article is available on guardian.co.uk and up to a year after it is removed GNM could be sued for defamation in respect of it. The Ministry of Justice is seeking views about reforming the law. They are considering whether to introduce a single publication rule and whether this should apply just to internet publications or all types of publications. In order to give potential claimants sufficient time to bring claims they are also considering whether they should also extend the limitation period for defamation claims from the current one year from the publication to three years from the date that a potential claimant becomes aware of the publication. A copy of the consultation paper can be viewed at <http://www.justice.gov.uk/consultations/defamation-internet-consultation-paper.htm>.

GNM is preparing a response to the consultation paper. If you have any comments about the consultation please can you send them to Isobel Griffiths. The deadline for submitting responses is 16 December 2009.

## General interest

Newsquest successfully defended a defamation claim brought against it by the

former solicitor Imran Karim. Mr Justice Eady said that the article which reported a three day hearing before the Solicitors' Disciplinary Tribunal was protected by absolute privilege. The claimant had also complained about a number of critical and abusive comments from readers that had been posted on Newsquest's website. The court held that the Newsquest website was only acting as a 'host', under the E-commerce regulations, of the reader comments. Readers posted comments directly on the website without intervention from Newsquest. Newsquest were not therefore aware of any unlawful content in those comments until they were alerted to it by the claimant and then Newsquest acted quickly to remove the comments. He held that they were not therefore liable for any damages in respect of these comments even if they contained unlawful material.

The Mirror and Newspics photographic agency paid £35000 in damages to Jade Goody's family this week in settlement of a privacy claim after the Mirror published photographs taken at Jade Goody's private funeral.

Tom Watson MP accepted 'substantial' damages from News Group Newspapers following the Sun's publication of articles in April which falsely claimed that he was part of a smear campaign against the Conservatives.

And finally....the BBC pulled an episode of 'This Week' from iPlayer following complaints from viewers that Andrew Neil was referring to race when after speaking about Gordon Brown's biscuit preferences he introduced Diane Abbott and Michael Portillo as 'the chocolate HobNob and custard cream of late night telly'.

From: [redacted] on 17/06/2011 12:34

Please respond to legal

To: Noticeboard Legal

cc:

Subject: Editorial Legal Newsletter (week ending 17 June 2011) - Not For Publication

Message:

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Ashtar Auld

[redacted]

17/06/11 12:33

To  
cc

[redacted]

Subject: Editorial Legal Newsletter (week ending 17 June 2011) - Not For Publication

### Editorial Legal Newsletter (week ending 17 June 2011) - Not For Publication

#### News

**The Bribery Act 2010** will become effective as of **1 July 2011**. The Bribery Act 2010 takes a robust approach to bribery, and creates a number of criminal offences which, even if committed abroad, can be prosecuted in the UK. These include (i) bribery - i.e. offering someone in the UK or abroad a financial or other advantage to improperly perform an activity (whether public or private), (ii) being bribed and (iii) bribing a foreign public official. An act of bribery by a UK national can constitute an offence even if performed outside England and Wales. The Act will raise some very difficult practical issues; for example, there is no exception under the Act in relation to hospitality, to third party expenses nor (which may be of particular importance to journalists) in relation to facilitation or 'grease' payments. The Act also covers hospitality and gifts. Payments outside the UK are caught - there is no 'culture' defence or public interest defences available. Guidance on the Act has been published by the Ministry of Justice:

<http://www.justice.gov.uk/guidance/making-and-reviewing-the-law/bribery.htm>. This suggests that where an individual is left with no alternative but to make a facilitation payment in order to protect against loss of life, limb or liberty there may be a defence of duress. Penalties will include imprisonment and fines (unlimited fines for a corporate failure - Section 7 of the Bribery Act 2010 creates a criminal offence of a failure to prevent bribery on the part of commercial organisations).

We will be including information on the Bribery Act and its implications for journalists in our next in-house training sessions which are scheduled for 12 October and 30 November (details will follow nearer the time). Anyone who requires any specific guidance or training before these dates should feel free to consult Editorial Legal Services.

Guidance about the Act will soon be available on Spike and in the Editorial Code and editorial staff should make sure they are familiar with this.

Stephen Pritchard wrote a column in the Observer in December last year on the possible areas where the Bribery Act may impinge on journalists which we would recommend you read, see

<http://www.guardian.co.uk/theobserver/2010/dec/19/bribery-corruption-law-journalism?INTCMP=SRCH>.

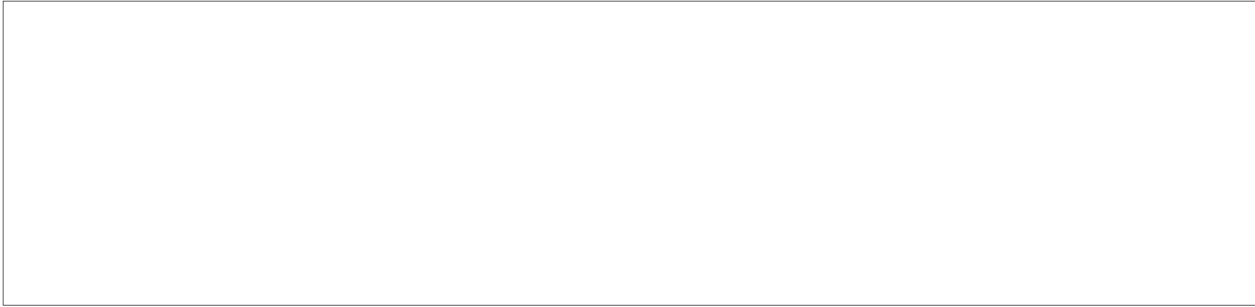
A seminar on the Bribery Act was run for all editorial staff on 2 December last year. For those who missed it, we still have copies of the handouts available.

### New Complaints

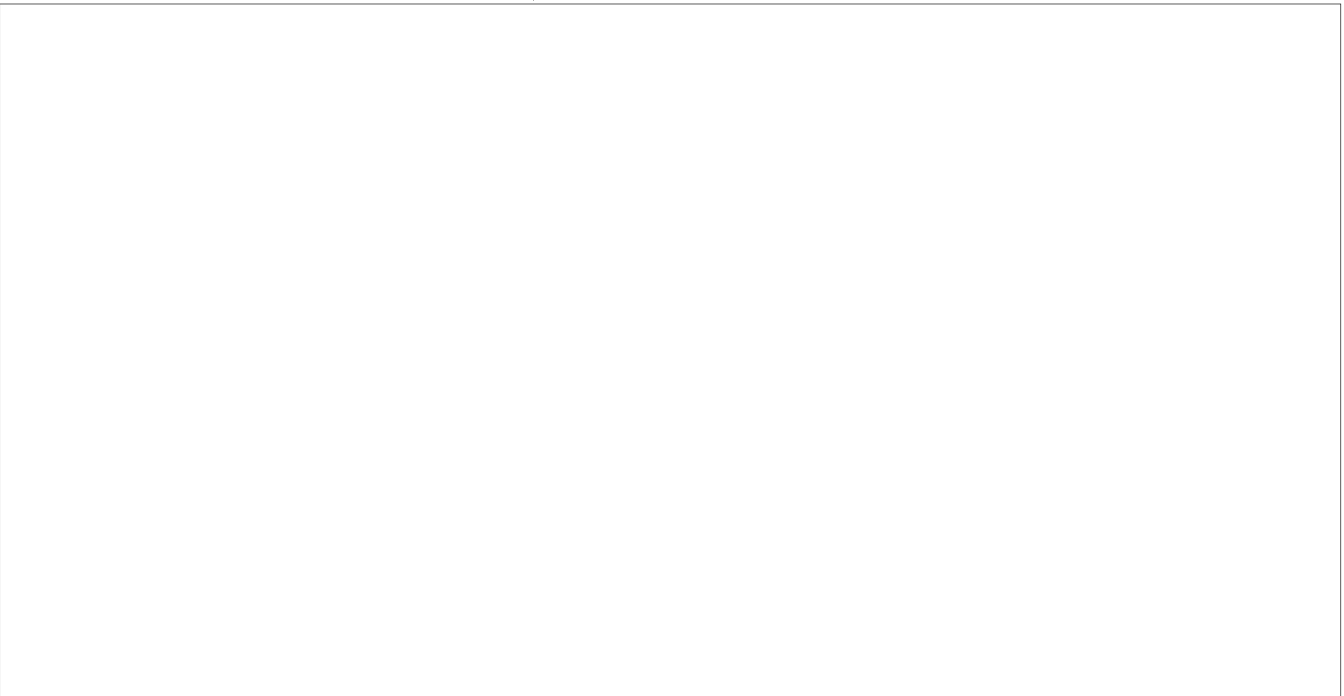
### Legal Warnings

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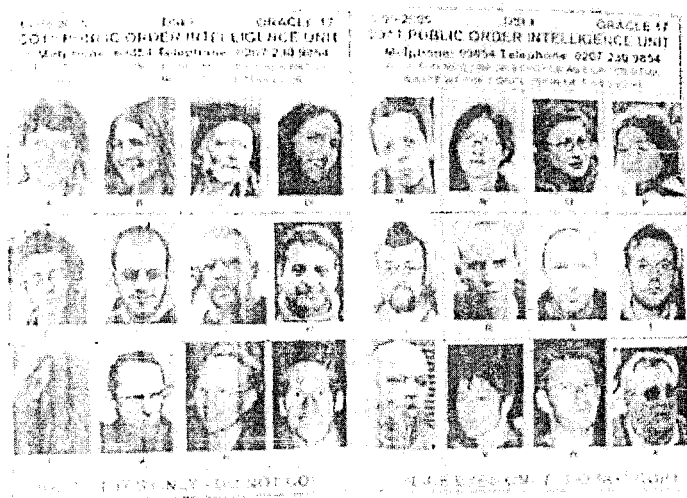
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# Spotter cards: What they look like and how they work

guardian.co.uk, Sunday 25 October 2009 20:30 GMT

By [David ...](#)



This kind of highly confidential document – pictured above – is rarely seen by the public.

These so-called "spotter cards" are issued by police to identify individuals they consider to be potential troublemakers because they have appeared at a number of demonstrations.

The photographs are drawn from police intelligence files. This card was apparently opped at a demonstration against Britain's largest arms fair in 2005.

It is Mark Thomas, the comedian and political activist. Asked why it was justifiable to put Thomas, who has no criminal record, on this card, the Metropolitan police replied: "We do not discuss intelligence we may hold in relation to individuals."

Thomas had been acquitted of criminal damage after attaching himself to a bus containing arms traders at a previous fair.

The Met said: "This is an appropriate tactic used by police to help them identify people at specific events ... who may instigate offences or disorder."

The arms fair "is a biannual event that is specifically targeted by known protest groups, who in the past have stated their intention was to shut down or disrupt the event." As the cards are "strictly controlled", the officers who lost it were "dealt with".

On Comment is Free today Thomas writes: "Protesters – or, as the police call them, 'domestic extremists' – are the new 'reds under the bed'."

• Are you featured on the card? How do you feel about it? Let us know by emailing

Spotter cards: What they look like and how they work | UK news | The Guardian

[news.desk@guardian.co.uk](mailto:news.desk@guardian.co.uk)

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Police spotter card from an arms fair in 2005

guardian.co.uk

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Ad-Ink One Printers

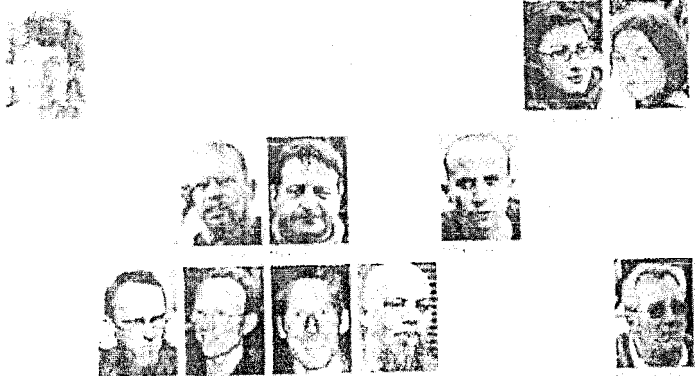
## Arms protester on police spotter card was alleged infiltrator for BAE

Martin Hogbin, listed as target X (bottom right) on spotter card, was accused of supplying information to firm linked to BAE security department

• [Interactive: a spotter card revealed](#)

Paul Lewis and Rob Evans  
guardian.co.uk, Tuesday 27 October 2009 19:17 GMT

View all photos



More photos

He was listed as target X, a so-called domestic extremist included on a secret police spotter card as a regular attender at anti-arms demonstrations.

But today it emerged that X was not quite the threat police took him for – at least to the arms industry. In fact he was an alleged infiltrator from the arms company BAE.

The 2005 spotter card, published by the Guardian this week, contains a photograph of Martin Hogbin (bottom right on the card), who was national co-ordinator for the Campaign against the Arms Trade. He was later accused of supplying information to a company linked to BAE's security department, but denied the allegation.

When asked about his past today, Hogbin said: "I couldn't possibly comment." He added that he had attended demonstrations because he thought the arms trade was "wrong".

Hogbin is the most unusual of almost a dozen people who have come forward after identifying themselves on the spotter card. The others are a medley of environmental and anti-war activists including an ecologist, an artist, a carpenter, an anti-roads demonstrator and a camerawoman who has challenged her detention by police all the way to the European court of human rights at Strasbourg.

The photos include the Fairford Two, who won an acquittal for breaking into an airbase on the grounds that they were preventing war crimes.

Subject A on the spotter card is Emily Apple, whose apparent mistreatment by police caused concern when the Guardian published a video this year showing her being held by the neck and forced in front of a police camera.

Apple, whose FITwatch group have retaliated by filming and recording pictures of police intelligence gatherers, said today that she was harassed and followed while travelling with her 18-month-old son. "I am not an extremist. I care deeply about an illegal and immoral [arms] trade."

Several of those who have come forward describe being targeted for extensive pursuit around London, sometimes by police making "sarky remarks".

Hogbin was apparently a close friend at the time of the campaigning comedian Mark Thomas, whose face also appears on the card.

Thomas said: "He seemed to be everywhere: getting kicked out of a company annual general meeting, helping to run a mock fire sale of the Iraqi national bank in the City, dressed as a devil on May Day or organising press conferences at the start of the London arms fair. We were friends, I knew his family. He became an integral part of my life."

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Commission's decision in the case of

Todd v The Guardian

The article reported on the use of private security firms by energy companies to gather information. The complainant, Ms Rebecca Todd who featured in the article, was concerned that the article was in breach of Clause 1 (Accuracy), Clause 3 (Privacy) and Clause 10 (Clandestine devices and subterfuge) of the Editors' Code of Practice.

Clause 10 states that the press "must not seek to obtain or publish material acquired by intercepting private or mobile telephone calls, messages or emails; or by the unauthorised removal of documents or photographs; or by accessing digitally-held private information without consent. Engaging in misrepresentation or subterfuge can generally only be justified in the public interest when the material cannot be obtained by other means." The complainant said that the newspaper had relied upon emails which appeared to have been obtained by illegal means, most likely hacking. Further, the newspaper had published a photograph of the complainant which she said was private as it was behind Facebook privacy settings which could not be accessed. The complainant's solicitor had informed the newspaper prior to publication that it seemed these documents could only have been obtained by unlawful means.

The newspaper had confirmed in correspondence that it had not accessed the complainant's emails or downloaded a photograph of the complainant – the documents had been passed to it by environmental activists who had collated this evidence as part of their own investigations into suspicious activities in their movement. Although the newspaper said it could not be sure how the emails were obtained, its sources had given an assurance that they had not intercepted the complainant's private messages, and in respect of the photograph the newspaper understood that it had been obtained at a time when the privacy settings on Facebook made the photo accessible. Further, the Indy Media website showed a screen grab of the complainant's public profile page, which showed she had certainly made at least one photograph of herself generally available at a time when concerned environmentalists were looking into her activities. The newspaper explained that, since leaked material was likely by its nature to have been obtained without authority, it had considered carefully whether there was public interest in publishing it. In this case, it had taken the view that there was.

The Commission made clear that the issue of alleged intercepted communications is a serious matter which requires careful consideration in view of all the circumstances. It has previously ruled (*St Andrews' Healthcare v The Echo and Daily Gazette*) that there is a distinction to be made between information which a newspaper or magazine has sought or obtained itself, or has commissioned, and that which comes unsolicited via a leak. In this instance, there was no suggestion that the newspaper had itself used unlawful means to acquire the documents in question; rather, the documents had been passed to it by a third party. The complainant appeared to have accepted this. The Commission was not in a position to ascertain how the information had been obtained. However, the complainant had alleged that the material had been provided without authorisation and the newspaper had made use of this material in the article. As such, the newspaper had to demonstrate a sufficient public interest justification for publishing the article.

The Commission noted that the article was reporting on undercover methods allegedly used by corporate entities to monitor the manner in which environmental activists went about their activities. The article reported that revelations about undercover police officers in protest groups had caused a "furore" the previous month and had led to "four official inquiries into their activities". Against this

background, the article was reporting that police chiefs "privately claim that there are more corporate spies in protest groups than undercover police officers", and that the president of the Association of Chief Police Officers had stated that "the deployment of uncontrolled and unrestrained players in the private sector" constituted a "massive area of concern". In this context, the Commission considered that there was a legitimate public interest in revealing the undercover methods allegedly used by private sector companies to monitor public protests. With this in mind, the Commission took the view that the revelation of the information - which the newspaper considered to demonstrate that the complainant was involved in the surveillance of environmental activism on behalf of companies in the private sector - was justified in the public interest. It could not therefore establish a breach of Clause 10 (Clandestine devices and subterfuge).

In respect of the complainant's concerns under Clause 3 (Privacy) concerning the photograph, the Commission took into account the public interest justification. It noted that the image was said to have been publicly available on the complainant's Facebook page, and that it had also been published online by other media. While the Commission was unable to establish precisely the extent to which the photograph had been publicly available, it did not consider that the publication of this photograph - which simply showed what the complainant looked like and did not show her engaged in any intimate activity - constituted an intrusion into the complainant's privacy. Taking into account all the circumstances including the public interest in publishing the story outlined above, it could not establish a breach of Clause 3 (Privacy) of the Code.

Turning to the complainant's concerns under Clause 1 (Accuracy), the complainant said she did not consider that it was reasonable to portray her as a spy or insinuate that she conducted her business by illegal means. The newspaper had explained in correspondence that the point of its story was that the complainant was not working openly and used furtive means to gain the trust of environmental groups and thereby acquire the information she needed to serve her clients. It pointed out that the article did not actually state that the complainant was acting illegally. The Commission noted that the article made clear that the complainant's firm was hired by companies who were concerned about "'potential threats' to their business". The Commission noted that the complainant had had a full opportunity to reply, and the article included the following quote from the complainant's lawyers: "Our client has not obtained any confidential information nor has she been guilty of any dishonesty". In view of this, the Commission did not consider that readers would be misled into believing that the complainant had been acting illegally. It could not establish a breach of Clause 1 (Accuracy) in respect of this point.

The complainant said she had not pretended to be an activist or organised the infiltration of any private meetings, whereas the article had stated that she "pos[ed] as a supporter". The Commission noted that the article referred to examples of the complainant instructing people on how to behave at climate groups, with quotes such as: "Do not mention that your [sic] going to Munich - obviously they hate short haul flights". The article also reported that the complainant had instructed a colleague to "forward information about activists to two companies". As it appeared that information had been acquired without the environmental groups being aware of the purpose for which it was to be used, the Commission considered that the newspaper was entitled to report that the complainant and her colleagues had "posed" as supporters. It could not establish a breach of Clause 1 (Accuracy) on this point.

The complainant said she had not signed up to private mailing lists. The Commission noted that the article alleged that the complainant had subscribed "to activist-only mailing lists to glean information" and had included a quote - attributed to an unnamed environmental activist - which stated that "[the complainant] and her colleagues 'couldn't have gotten subscribed without attending our meetings'". The newspaper had explained in correspondence that there appeared to be two ways of subscribing to

mailing lists: the first was by going to the websites of the groups and signing up, and the second category of mailing list to which people could subscribe only by attending events of the group. The Commission was not in a position to ascertain the manner in which individuals could subscribe to the mailing lists in question. However, as the article had clearly reported the complainant's position that she had "subscribed to emailing lists through the websites of the environmental groups" and that "all the information she acquires comes from public sources", the Commission considered that readers would be aware of the complainant's position in this regard. It could not establish a breach of Clause 1 (Accuracy).

The Commission considered the complainant's assertion that she had not obtained any confidential information nor had she been guilty of dishonesty. While a quote from the complainant's lawyer to this effect had been included in the article, the Commission noted that the article reported that the complainant had been "snooping" on the emails of environmental activists. The remainder of the article clarified that the complainant had signed up to the mailing lists of a series of environmental groups which gave her "access to communications and advance notice of demonstrations", and reported she had "gained access to emails and meetings where tactics and strategies were discussed". While the Commission considered that the use of this word "snooping" was strong, it was satisfied that readers of the full article would be aware of the context in which the word had been used. With this in mind, it could not establish a breach of Clause 1 (Accuracy).

With respect to the complainant's statement that the article was wrong to refer to "dozens of Vericola communications", the newspaper said it had seen sixteen emails in all, which comprised those sent from the complainant's Vericola email account to Mr Bishop, as well as those between environmental groups and the complainant's alias accounts. While the Commission did not consider that the use of the term "dozens" was significantly misleading such as to breach Clause 1 (Accuracy) of the Editors' Code, it welcomed the newspaper's offer to correct this point.

Reference No. 110933

**Amber Mun**

Complaints Officer

Press Complaints Commission

Halton House

20/23 Holborn

London EC1N 2JD

Tel: 020 7831 0022

Website: [www.pcc.org.uk](http://www.pcc.org.uk)