

### ***A married couple v Daily Mail***

Clauses noted: 1

A married couple from Cheshire complained to the Press Complaints Commission that an article headlined "She was the 12 year old British girl who ran away with a US Marine she met on the internet. But what was the REAL story behind their 'romance'...and how much are her family to blame?" published in the Daily Mail on 26 February 2004 contained inaccuracies in breach of Clause 1 (Accuracy) of the Code of Practice.

Following an offer of remedial action from the newspaper, no further action was required.

The parents of the 12-year-old girl abducted by Toby Studabaker, the United States Marine, complained that the article, which blamed them for the circumstances which led to the incident, was inaccurate and misleading on several counts. The complaints could be separated into three distinct categories.

The first concerned the emotional state of the victim in the aftermath of events. The complainants said that the description of their daughter as "cooped up indoors", "tearful" and "isolated" was inaccurate. Equally, the girl did not remain convinced that she was "deeply in love" with Studabaker, she did not blame her parents for "interfering" with her life nor did she still have plans for reconciliation with her abductor. Furthermore, it was not the case that the complainants' daughter had insisted that nothing sexual happened and had refused to give any details of what had occurred.

The second group of complaints related to descriptions of the complainants and their relationship with their daughter by unnamed sources. They stated that references to the family as "dysfunctional", "tense" and "not particularly well-equipped for dealing with pubescent girls" – and to the mother specifically as "domineering", "controlling" and "prone to odd behaviour" – were untrue. In addition, inferences drawn from these descriptions – such as that the complainants' daughters found it difficult to develop their own personalities – were distorted.

The final category of complaints related to the complainants' other daughter. The article alleged that she had "left the family home as soon as she turned 16" and had become pregnant before her sixteenth birthday. The complainants said she was 16 when she became pregnant and left home when she was nearer to 17.

The complainants argued that the newspaper had relied on unsubstantiated opinion in writing the article and did not accept that the newspaper should be allowed to use confidential sources in such a serious matter. They considered that a public apology was required.

The newspaper regretted that the article had upset the complainants. The sources for the article – which included a close family member, a neighbour and the mother of one of the victim's schoolfriends – could not be revealed owing to the sensitive subject matter. Regarding the description of the family as "dysfunctional", the newspaper said that this term was used on more than one occasion by people who knew them well and were close to the police inquiry. Similarly, the sections referring to relationships within the family came from those directly involved in the investigation. The newspaper argued that the fact that the victim was often on her computer for up to eleven hours a day – which was mentioned in open court and not disputed – suggested a degree of dysfunctionality within the family. The article comprised freely held opinions based on facts that were established in the public domain.

The newspaper said that the police – as well as the close family member – insisted that the victim continued to be unable to accept what had happened. One police officer had remarked that she had to be treated as a 'hostile witness', owing to her reluctance to implicate Studabaker. This was

mentioned in court. Furthermore, this point was already fully in the public domain since it had been included in a previous article on the matter in a separate newspaper.

Finally, the newspaper considered that the reference to the complainants' other daughter leaving home at 16 was not a fundamental mistake or a significant inaccuracy in the context of the article as a whole. The fact that their daughter did not stay at home once she was legally able to move elsewhere illustrated a degree of unease within the family environment.

Nonetheless, the newspaper was prepared to annotate its records so that the complainants' concerns would be taken into account in any future references to the case. It was, in addition, ready to consider any reasonable course to help to resolve the matter, including publishing an anonymous letter from the complainants in response to the article.

### *Adjudication*

The Commission firstly made clear that it could well understand that the complainants found the contents of the article distasteful. Nonetheless, it emphasised that it could only come to a decision under the terms of the Code of Practice.

Clause 1 (Accuracy) permits the publication of opinion – even from anonymous sources – provided that it is clearly distinguished as such. The Commission noted that the article contained a number of anonymous personal opinions about the complainants and their family – views with which the complainants clearly disagreed. The Commission found, however, that they had been presented as opinion in accordance with the Code, and not as fact. Moreover, it noted some of the claims to which the complainants had objected had already been established in the public domain both by virtue of being revealed in court and in a sister newspaper article, in regard to which no previous complaint had been made.

However, there were some instances where the complainants objected to the underlying accuracy of the claims but where the newspaper relied solely on anonymous sources, either directly or when summarising their views. Clause 14 (Confidential sources) of the Code imposes an obligation on newspapers to protect anonymous sources of information. Nonetheless, it is the Commission's normal practice when considering complaints about the accuracy of claims made by such sources to examine whether there is any material to corroborate the claims, or, if not, to ask the newspaper to afford the complainant an opportunity to reply. This general approach is designed to prevent newspapers from using Clause 14 as a trump card to defend any allegation of inaccuracy.

As noted above, the newspaper had shown that some of the details under dispute had been established elsewhere in the public domain, and the Commission was satisfied that there was no breach of the Code on those points. Turning to the outstanding matters, it was clear to the Commission that the newspaper was constrained in offering any remedial action by the legal requirements preventing any on the record response from the complainants. In these circumstances, the Commission considered that the newspaper's dual offer to annotate its records with the complainants' concerns, and to publish an anonymous letter from them putting their point of view, was a proportionate and suitable remedy to the complaint. No further action was required.

### Relevant rulings

McKenna v Daily Mirror, 2004

Beckham v Sunday Mirror, 2004

EMI Records Limited v News of the World, 2004

Clarke MP v The Times, 2002

Adjudication issued 2004