

***Ms Sarah Baskerville v Daily Mail***

Clauses noted: 1, 3

Ms Sarah Baskerville complained to the Press Complaints Commission that an article headlined "Oh please, stop this twit from Tweeting, someone", published in the Daily Mail on 13 November 2010, intruded into her privacy in breach of Clause 3 (Privacy) and was misleading in breach of Clause 1 (Accuracy) of the Editors' Code of Practice.

The complaint was not upheld.

The article reported that the complainant - a civil servant who worked for the Department for Transport - had been using the micro-blogging website, Twitter, to describe aspects of her job and her feelings towards her work. The newspaper considered some of her comments to be inappropriate.

The article referred to the fact that the complainant had in her tweets: described the leader of a course she was doing (as part of her job) as "mental"; said that she was "struggling with a wine-induced hangover" at work; and, again at work, told how she was "feeling rather tired - would much prefer going home". In addition, the article pointed to a number of tweets that were political in nature: a complaining reference to a Conservative MP who was a prominent critic of Whitehall waste; a re-tweet of a Labour MP's attack on government "spin"; and a reference to the complainant's acquaintance with Sally Bercow.

The complainant said her activities on Twitter and other social networking sites (she also had a blog and had uploaded pictures of herself on Flickr) were private. While it was true in theory that anybody could view the information she had posted online, she argued that she had a "reasonable expectation that my messages...would be published only to my followers". Only her 700 or so followers could see the full context of her messages. Others would only find her account by actively searching for her, which seemed an unlikely thing for most people to do, and would only see messages she had posted, not those she was responding to. Her Twitter account and her blog (neither of which were anonymous) both included clear disclaimers that the views expressed were personal opinions and were not representative of her employer.

In addition, the complainant said that the newspaper had presented her messages out of context. For example, in another tweet about the course she had attended she made clear it was "good and worthwhile". This meant that readers were given a misleading impression of her character. She argued that there were thousands of public sector workers who regularly use Twitter in and out of office hours. She could not understand why she had been targeted.

The newspaper disputed that it had invaded the complainant's privacy. She was openly posting messages about many aspects of her life, including her job. The material could be read by anybody; she had not limited her Twitter account to those officially "following" her.

In any case, there was an ongoing debate about the use of social media, which the newspaper was entitled to take part in. Since the civil service code requires that public servants should not, by their personal statements, call into doubt the impartiality of the civil service, it was quite legitimate for the newspaper to highlight this particular case. As to taking the messages out of context, the newspaper said it could only include a limited number of posts and argued that those it had referenced were the ones that were relevant to the point being made by the columnist - that a civil servant ought not to publicise political views online and talk of being hungover at work.

The complainant said she was fully compliant with the civil service code. As a result of the newspaper's article, she had taken the decision - reluctantly - to lock her Twitter stream so it could not be viewed by anybody apart from her followers.

### *Adjudication*

The Commission has made a number of key rulings about the use by newspapers and magazines of material obtained from social networking sites. This was the first time it had considered a complaint about the republication of information originating from Twitter.

There was no dispute that the material posted by the complainant was open to public view, and could be accessed by anyone who wished to read it. Although there were 700 actual subscribers to the complainant's account, the potential audience was much greater. This was particularly the case as any message could be "re-tweeted" without the complainant's consent, or control, to a larger subscription list. This was a notable feature of Twitter. The publicly accessible nature of the information (for which the complainant was responsible) was a key consideration in the Commission's assessment as to whether it was private.

The Commission also had regard to the quality of the information (how personal it is), how it is used by the publication and whether there is a public interest. In this case, the Commission noted that the published material related directly to the complainant's professional life as a public servant. The newspaper was seeking to comment on the wisdom of civil servants using social media platforms, which may give rise to claims that it can conflict with their professional duties.

The Commission recognised that the complainant had been caused distress by the coverage of the newspaper, which was regrettable. However, taking into account all of the above factors, it did not consider that the material published by the newspaper constituted an unjustifiable intrusion into her privacy in breach of Clause 3 (Privacy) of the Code.

The Commission did not consider either that the article was misleading or distorted. It was accepted that the complainant had made the comments attributed to her. While the newspaper could have included more innocuous tweets, its failure to do so did not render the article misleading. The article constituted an argument by the journalist - with which some people clearly would disagree - that the actions of the complainant were inappropriate. Readers would recognise that he was using selected tweets to reinforce that argument. There was no breach of Clause 1 (Accuracy) raised by this complaint.

#### Relevant rulings

Goble v The People, 2009

Mullan et al v Scottish Sunday Express, 2009

Rundle v The Sunday Times, 2010

A Woman v Loaded, 2010

Baskerville v The Independent on Sunday, 2011

Adjudication issued 08/02/2011