

A reader v Sunday Mirror / The People / Daily Mail / The Mail on Sunday / News of the World

Clauses noted: 15

The Press Complaints Commission has investigated claims that five national newspapers paid or offered to pay witnesses in the Amy Gehring indecency trial in breach of Clause 16 (Payment for articles) of the Code of Practice.

The Code

The Code states that “payment or offers of payment for stories or information must not be made directly or through agents to witnesses or potential witnesses in current criminal proceedings except where the material concerned ought to be published in the public interest and there is an overriding need to make or promise to make a payment for this to be done”. It also requires that journalists take every possible step to ensure that no financial dealings have influence on the evidence that those witnesses may give and that any payment or offer of payment to any witness who is actually cited to give evidence should be disclosed to the prosecution and the defence.

The Commission also took into account the spirit of Clause 6 of the Code which concerns interviewing children, even though it did not appear that any of the witnesses were under 16 at the time of the approaches by the newspaper.

The Amy Gehring Case

The trial of Amy Gehring - a supply teacher who had come to the UK from Canada – concerned allegations that she had indecently assaulted underage pupils who attended a school where she taught. She was acquitted. There were a number of young witnesses in the case and concern was expressed by some that a number of newspapers had approached these witnesses before the end of the trial with offers of payment for their stories.

The newspapers’ defences

The Commission wrote to the Daily Mail, Mail on Sunday, Sunday People, Sunday Mirror and News of the World to ask them to justify any such approaches under the terms of the Code.

The News of the World

The News of the World confirmed that it had made an approach to the parents of a girl witness on January 25 2002 - after she had given evidence. Following discussions with the family it was agreed that the girl had a great deal to say about Ms Gehring, much of which had not been revealed in court. It was also clear that the family did not wish to appear in the media without some form of compensation. At no time did the paper talk alone with the girl - her parents and brother were always present. There was therefore no possibility of prejudicing the trial or upsetting the girl. The subject matter - which concerned how Ms Gehring came to be employed as a teacher and how she conducted herself both in and out of school - was of the greatest public interest.

The Mail on Sunday

The Mail on Sunday said that it had not approached any potential witnesses before the trial but that during its background preparations it became apparent that Ms Gehring had been the subject of similar accusations previously but had been allowed to continue to work. In these circumstances, there was a significant public interest in talking to the people directly involved in the case. The paper approached the parents of two witnesses who declined to be interviewed. It then approached the parents of a 16 year old girl at their home after the girl had given evidence. The parents told the reporter that another witness in the case - Boy C - was upstairs but the paper said that they were

not interested in speaking to him without his parents being present. The girl's mother immediately made it clear that her daughter would only give an interview in return for money and the newspaper entered into an agreement with The Sunday People to pay £3000 each for interviews with the woman and her daughter, payable on publication. The mother of Boy C then arrived at the house and said that her son would give an interview but only in exchange for money. Both newspapers agreed to pay £5000 each for an interview with him, payable on publication. In neither case was there a suggestion that payment would be dependent on a conviction.

On January 29 all the witnesses were called back to the court to answer questions from the defence and prosecution about the approaches that had been made to them. It was clear from their answers that no approaches had been made until after they had finished giving evidence, a fact to which the judge referred in his summing up.

In the event, Ms Gehring was acquitted and the newspaper took the decision not to publish the interviews. It took into account both the fact that the acquittal effectively discredited the witnesses and that all the information about the previous scandal had been published during the week, leaving nothing new to report on the Sunday. Since the contracts specified that payment would be made 'on publication', no money was paid to the families.

Daily Mail

The Daily Mail said that it had made no payments, nor offered any, to any of the witnesses in the trial. In the course of collecting background material for the trial a Mail reporter had contacted the parents of witnesses in the trial but not until after those witnesses had completed their evidence and been discharged. The question of payments was raised by the parents and not by the reporter, who indicated that payment might be made but not until after the trial was over and subject to conditions. However, no such offers were made.

The paper added that the public interest in the trial was indicated by the subsequent revelations and said that the media had a clear duty to examine how a teacher who had already raised concerns about her suitability to supervise children could be appointed to another post elsewhere and behave in an unsuitable manner.

The Sunday People and Sunday Mirror

The solicitor for Mirror Group Newspapers responded on behalf of the Sunday People and the Sunday Mirror.

He said that a reporter from the Sunday Mirror discussed with one boy and his parents the possibility of an interview, but the approach was made only after he had finished giving evidence. An agreement was then made to publish an interview and a contract was signed by the parents and by the boy. When he was recalled the boy confirmed to the judge and jury that the approach had been made after he had finished giving evidence.

Regarding the Sunday People, the solicitor confirmed the version of events outlined by the Mail on Sunday, with which the Sunday People had a joint arrangement to pay two of the witnesses. He added that there was no question that the witnesses would be paid any more money if Ms Gehring was convicted. In the event, no money was paid as nothing was published.

He also addressed concern that had been expressed about the desirability of teenagers talking about their sexual exploits in interviews. He said that while some people might disagree with the teenagers effectively selling their stories it was a matter that was for them and their parents, and he argued that to prevent them from doing so would arguably infringe their rights to freedom of expression under the European Convention on Human Rights.

Adjudication

The Code sets down tough requirements that editors must follow before offering such payments. The five key tests that the Commission rigorously and consistently applies in dealing with such cases are:

- did the journalists take every possible step to ensure that any financial dealings had no influence on the evidence that the witnesses gave?
- were the payments disclosed to the prosecution and defence?
- was the material in the public interest?
- was there an overriding need for offers of payment to be made?
- was any money offered dependent on conviction?

The Commission considered each of the points separately.

1. The Commission determined that the journalists had taken every possible step to ensure that any financial dealings did not interfere with the evidence. It noted that all the approaches took place after the witnesses had given evidence - as the judge had confirmed in his summing up - and that none of the children was approached directly, but through their parents.

2. The Commission noted that the payments were not offered until after the witnesses had finished giving evidence. There were therefore no offers for the prosecution and defence to know about when the witnesses were testifying. However, the key to the Code is transparency - and the Commission noted that the court had been made aware of all the offers when the judge recalled the witnesses to answer questions about their dealings with the newspapers. All the dealings were therefore transparent and known about before the verdict was reached. The requirements of the Code had therefore been met on this point.

3. The Commission considered whether the material was in the public interest. It considered that it was. The witnesses had first hand accounts of Gehring's behaviour - material that in some cases, according to the newspapers, was not called in evidence - which raised questions about why she was not restrained by the relevant authorities, a matter clearly in the public interest. The public was entitled to know the full story of what had happened, bearing in mind that every allegation of unsuitable behaviour would not sustain criminal charges and would not therefore have been heard in court. The events happened in the wider context of a serious shortage of teachers which had forced the government to look abroad for supply teachers to fill posts. This story illustrated some of the potential dangers in this policy.

4. The Commission considered whether there was an overriding need for the offers of payment to be made. It considered that the newspapers had demonstrated that there was such a need. According to the newspapers, all the parents brought up the question of payments with the reporters, not the other way round. They said that their families had to be compensated for discussing their involvement with Gehring in the media. The families were entitled to make this demand but, had the payment not been offered, there would have been no possibility of the information being made public.

5. The Commission made very clear when adjudicating on a complaint about a payment made to a witness in the Gary Glitter indecency case that it is not acceptable to offer money on the condition that the defendant is convicted. This is the first time that the Commission has considered the issue of witness payments since then and it was pleased to note that none of the newspapers had offered any money on that basis.

After a thorough review of the facts of this case, the Commission found that no breach of the Code was established. This was the first case since the Glitter complaint that the Code has been tested in

this area, particularly on the question of conditional payments, and the Commission was satisfied that newspapers had taken account of the terms of the Code before the approaches were made.

Relevant ruling

Taylor v News of the World, 1999

Adjudication issued 21/03/2002