

Mr Clive Soley v Evening Standard

Clauses noted: 16

Mr Clive Soley of London complained to the Press Complaints Commission that an article published in the Evening Standard on 23 March 2005 headlined "We buy a minister's 'passport' for £2,000" followed payment to a criminal in breach of Clause 16 (Payment to criminals) of the Code of Practice.

The complaint was not upheld.

The article reported how an undercover journalist had paid for bogus papers – some in the name of a government minister – in order to expose the industry in fake identities, which the newspaper claimed was worth an estimated £1.3 billion a year.

The complainant was concerned that there had been a payment to a criminal for the false passports in breach of Clause 16. He also objected that the newspaper had apparently not sought to contact the police with the information it had obtained, and had only co-operated with the police once contacted by them.

The newspaper suggested that the complainant had misunderstood the provisions of the Code. Money was not paid to a convicted or confessed criminal, and the article did not exploit a particular crime, or glorify or glamorise crime in general. The newspaper confirmed that it had spoken to police on the day of the story, and continued to co-operate with them, something with which the police were apparently satisfied. The question of who contacted whom first was irrelevant. The story clearly highlighted an issue of genuine public concern, and the payment had allowed the journalist to expose illegal activity in the public interest.

The complainant did not consider that there was a convincing public interest defence. Information about the general issue of criminal gangs and forged documents was already well-known and in the public domain. The newspaper's behaviour would only have been justifiable in the public interest had it provided police with information about the offences of its own volition. By the time the information was passed on – following a request from the police – the article's publication had warned the criminals about possible police interest in them. The complainant requested that the Commission make clear on which occasions newspapers should divulge information to police in advance of publication.

Adjudication

Clause 16 was revised in June 2004, and now prohibits payment for stories, pictures or information 'which seek to exploit a particular crime or to glorify or glamorise crime in general'. The Commission did not consider that the payment in question could reasonably be argued to do any of these things. It was clearly made to provide evidence for an article on the subject of the trade in false identities, which the Commission considered to be an issue of legitimate public concern. Payment was necessary to secure the relevant evidence – and had not been made to a convicted or confessed criminal in relation to a particular crime that had already been committed, or to glamorise crime in general.

The complainant had also raised the question of whether it was necessary, in the public interest, for the newspaper to have alerted the police so that they could initiate enquiries. The Code does not in fact make this requirement of newspapers, and the newspaper's failure to do so was not therefore a breach of it. The public interest exemption instead says that breaches of the Code are permissible when necessary to detect or expose 'crime or serious impropriety' – something that the newspaper argued it had sought to do in this case. But in any case, as the terms of the Code had not been breached, it was not necessary for the public interest defence to be invoked.

Adjudication issued 2005