

Thames Valley Probation Area v The Mail on Sunday

Clauses noted: 16

Thames Valley Probation Area complained to the Press Complaints Commission that a payment made by The Mail on Sunday for information contained in an article published on 15 October 2006 headlined "The judge stood out like a sore thumb – we thought he must be a posh pervert" raised a breach of Clause 16 (Payments to criminals) of the Code of Practice.

The complaint was not upheld.

The article followed news that the Lord Chief Justice, Lord Phillips, had done some undercover community service in order to test the merits of non-custodial sentences. It quoted three individuals who were said to have been carrying out their own sentences on the same day as Lord Phillips. They discussed their experience of the Lord Chief Justice, their opinion of him and their approach to community service.

Following a complaint to the Commission by Thames Valley Probation Area under Clause 1 of the Code about the accuracy of the piece, the newspaper – after making enquiries and considering the complainant's submission – accepted that the individuals to whom they had spoken had not in fact taken part in the session or been supervised by Thames Valley Probation Area. It therefore published a correction and apology on the matter, as it was obliged to do under the Code of Practice.

The complainant also asked the Commission to consider whether there had been a breach of Clause 16. One of the interviewed men, Shane Campbell, was on a stand-alone Curfew Requirement and was wearing an electronic tag at the time of the interview.

The newspaper said that it had initially spoken to Mr Campbell – who appeared to possess a large amount of information about the session – without an offer of payment. It soon became apparent that a full interview would not have been obtained without payment. The newspaper gave him a total of £460 in three payments. He, in turn, supplied pictures and information about the two other individuals who, he said, had taken part.

In its defence, the newspaper said that the article did not seek to exploit a particular crime because, although Mr Campbell may have had a criminal record for other offences, Thames Valley Probation Area had confirmed that he was not guilty of any crime which had resulted in him being under their supervision. It further argued that the article did not glorify or glamorise crime in general, or Campbell's own crime – indeed, he had been portrayed as a "petty crook" who deserved the punishment.

While the newspaper did not consider that it was necessary to demonstrate a public interest in the matter, it was evident that one existed with regard to the sentencing of criminals. It had believed, at the time, that Mr Campbell's views of the sentence and Lord Phillips' experiment were a matter of public interest.

Adjudication

For the purposes of this complaint – even though both parties to the complaint agreed that those interviewed had not, after all, carried out community service with the Lord Chief Justice – the Commission proceeded on the basis that Shane Campbell, who received £460 from the newspaper, had been convicted of a crime. Certainly that must have been the assumption of the newspaper when it made the payments, for two reasons: he had claimed to have been carrying out community service, and he had told the newspaper that he was the subject of a curfew order which entailed him wearing an electronic tag.

Clause 16 of the Code says that payments must not be made to convicted criminals for information which seeks 'to exploit a particular crime or to glorify or glamorise crime in general'. There is, however, a public interest defence for making such payments. The Code does not outlaw payments to people with criminal records in all circumstances.

The information clearly could not have been in the public interest if it was fictitious. However, before the Commission considered whether the information would have been in the public interest had it been true, there was a simpler consideration: did the information exploit a particular crime, or glorify or glamorise crime in general?

The Commission concluded that it did not. The Code deliberately refers to a 'particular crime' so that it does not amount to a blanket ban on paying anyone who has a criminal record. Campbell's crimes were not referred to in the piece – so 'a particular crime' had not been exploited. The fact that a crime would have had to have been committed in order for someone to talk (honestly) about their experiences on a community service scheme was not sufficient, in the Commission's opinion, to engage the terms of the Code. Otherwise, the definition of exploiting crime would be unduly restrictive so that stories about general prison life – or other information from the perspective of a criminal – would be caught by the Code.

There was also nothing in the article that glorified crime in general terms, and the descriptions of the life of a petty criminal undertaking community service did not glamorise it.

The Commission appreciated that there would be people who would have strong views about payment to such people in any circumstances. However, the Commission must adjudicate under the terms of the Code – and its decision, for the reasons set out above, was that it had not been breached.

Adjudication issued 25/01/2007