

Mr Bartholomew Fisher through MacDermott & McGurk solicitors v Sunday World

Clauses noted: 1

Mr Bartholomew Fisher complained to the Press Complaints Commission through MacDermott & McGurk solicitors of Derry City that an article headlined "Double killer to face review of 'lenient' decree" published in the Sunday World on 13 March 2005 was inaccurate in breach of Clause 1 (Accuracy) of the Code of Practice.

One part of the complaint was not upheld, while the Commission made no finding on the other.

The complainant denied the article's claim that his recent conviction for manslaughter had been referred to the Attorney General's office because the prosecution believed his three-year prison sentence was 'unduly lenient'. He was not 'set to find himself back in court quicker than he bargained for'. He also denied that he had been 'involved' in the murder of a Mark Robinson in 2001.

The Commission initially adjudicated on the matter without any significant input from the newspaper, which later explained that there were particular difficulties in corroborating its story given the subject matter of the article and what the newspaper described as the climate of fear that exists in Northern Ireland. In light of the lack of evidence, the Commission at first had no option but to uphold the complaint. On receipt of its adjudication the newspaper provided more detailed material in its defence.

It said that there were two incidents which corroborated the claim that the complainant was involved in the Robinson murder. First, it said that he had admitted the killing when he left court during his trial for manslaughter. Second, it quoted a woman called Margaret Devine who had described publicly how the complainant had mentioned his involvement in the stabbing while threatening someone else. It also provided an article in the Northern Irish edition of the Sunday Times, about which there had been no complaint, which referred to the complainant's suspected links with the murder. The newspaper also provided a letter from the public prosecution service confirming that a referral of the complainant's sentence had been made to the Attorney General.

The complainant disputed that the prosecution had been involved in the referral to the Attorney General – it had been made by the victim's family. He also maintained that he was not involved in Mark Robinson's death and denied admitting otherwise, and that the Sunday Times article submitted by the newspaper was also full of inaccuracies.

Adjudication

While the Commission understands that particular difficulties are posed when researching and reporting these types of stories, it regretted that it had taken so long – and an initial ruling by the Commission – for the newspaper to provide a substantive defence to the complaint. Members of the Commission were critical of the delay and asked the chairman to write to the editor about it, and to ask him how the specific difficulties in responding to this type of complaint might be addressed in future.

Turning to the substance of the complaint, the newspaper had provided evidence of a referral being made by the Attorney General for a review of the complainant's sentence. While the Attorney General had decided not to seek an appeal of that sentence, the Commission did not consider that it was materially inaccurate at that point for the newspaper to have suggested that the complainant was set to find himself back in court. Any minor inaccuracy regarding who had made the referral – the victim's family or the prosecution – was not, in the Commission's view, significant. There was no breach of the Code on this issue.

The Commission had greater difficulty in making a finding on the complaint that the claim that the complainant had been involved in the fatal stabbing of Mark Robinson was inaccurate. On the one hand, the newspaper had pointed to two occasions on which it said he had admitted to the killing, one where a witness had made an on the record statement to that effect. It had also submitted, in the form of a newspaper article, material that was in the public domain about suspicions of the complainant's involvement in the murder. The newspaper had then explained why any further corroboration of its allegation would be difficult in the context of the subject matter and the situation in Northern Ireland. On the other hand, the complainant had said that the accusation was inaccurate, had denied making the admissions that the newspaper claimed, and had said that the Sunday Times piece was also inaccurate.

The Commission has no powers of sub poena or cross-examination. When material has been submitted by both parties – as in this case – and both sides still disagree, the absence of these powers makes it practically impossible for the Commission to make a finding on whether such serious criminal allegations are inaccurate or not. This could only properly be tested through the courts. For this reason the Commission did not consider that it was appropriate to proceed further with this part of the complaint, and declined to adjudicate on it.

Adjudication issued 2005