

Mr Paul Burrell v News of the World

Clauses noted: 1

Mr Paul Burrell complained to the Press Complaints Commission, through David Price Solicitors, that an article published in the News of the World of 15th June 2008, headlined "Burrell: I had sex with Diana", was in breach of Clause 1 (Accuracy) of the Code.

The complaint was upheld.

The article reported the claim by Ron Cosgrove, the brother-in-law of former royal butler Paul Burrell, that Mr Burrell had once revealed he had had sex with Princess Diana.

The complainant strongly disputed the central allegation in the article. He said that the sole basis for the allegation was Mr Cosgrove's claim that the complainant confided the secret to him in a pub in 1993, and denied that such a conversation had occurred. He accepted that the PCC was not the appropriate body to determine whether or not the conversation had taken place, or whether the allegation was true, and restricted the complaint to two issues:

- whether or not the newspaper had taken care not to publish inaccurate information, by investigating the claims properly, including putting them to the complainant for his comment before publication;
- whether or not readers would have been misled by the lack of a denial from Mr Burrell.

The complainant argued that the claim by Mr Cosgrove was inherently improbable and likely to be motivated by the financial reward offered by the newspaper. This meant that there was a greater need for the newspaper to go to Mr Burrell for comment. He said that the article referred to the complainant and Mr Cosgrove discussing the Princess's use of the phrase "her rock", but said this phrase was not current in 1993. Mr Cosgrove had never previously shared his lurid claims with his wife or sister, and had waited fifteen years to raise them.

The newspaper argued that it had credible evidence to publish the story. It had three sources at the time of publication. The first was a confidential source, a former associate of Mr Burrell, who approached the newspaper several months before the story was published. He made detailed allegations on tape and in an affidavit. The newspaper did not publish anything at that time because there was no further corroboration. Months later, and entirely separately, Mr Cosgrove volunteered his account. His version of events was tested several times in interview, and he swore an affidavit in support of his position. This affidavit was then confirmed by his son Stephen (who signed and witnessed it prior to publication, and subsequently signed his own affidavit). Stephen Cosgrove indicated that he had heard the story himself from Mr Burrell at a later event. The newspaper provided the PCC with redacted versions of the two Cosgrove affidavits, but it did not supply the initial source's affidavit because it wished to respect that source's anonymity.

The newspaper said it did not seek to publish the complainant's denial at the time, because he was a self-confessed and notorious liar. He had been branded a liar by the coroner at the Diana Inquest and had admitted – in a video published by the Sun newspaper – that he had not told the "whole truth" to the court. In any case his denials were widely carried in other media. The newspaper was also concerned that the complainant would – if he had been made aware of the story – have obtained an undeserved injunction from an emergency judge. It was willing to append the complainant's denial to its online article as a means of resolving the complaint.

Adjudication

Given that, as the complainant had conceded, it was not possible for the Commission to make a finding of fact as to whether the alleged conversation had ever taken place, the principal task for the Commission was to consider whether the newspaper had taken care not to publish misleading information in the way it had presented the story. This boiled down to an assessment as to whether readers would have been misled by the omission of Mr Burrell's position on the matter, which was that he strongly denied either having had the conversation with Mr Cosgrove or ever having a sexual relationship with Princess Diana.

The newspaper had argued that it was not necessary to go to the complainant for a comment before publication because his comments would have been worthless as he was a proven liar, and because it had three sources for the claim that he had boasted of a sexual relationship with his former employer.

The Commission has previously said that failure to contact the subjects of articles before publication – while not obligatory – may constitute a lack of care under Clause 1 in some circumstances. It has never said that people have no right ever to comment on a story, or to be offered a right of reply, if they have misled people in another context.

The Commission was also aware of the newspaper's concerns about an undeserved injunction being granted. However, it did not consider that this meant that the requirements of the Code did not apply. Given the nature of the story, and how the newspaper wished to present it, the inclusion of the complainant's comments was necessary to avoid breaching the Code.

There were several reasons why the Commission considered that Mr Burrell's denial of the allegations should have been made clear in the article. The claims about him were significant and substantial, and published with great prominence. The information came from the recollection of a fifteen-year-old conversation, and was not corroborated on the record by anyone outside Mr Cosgrove's immediate family (as the earlier source remained anonymous). It was clear to the Commission in these circumstances that there was a strong likelihood that the omission of any denial from Mr Burrell may have misled readers into believing that he accepted Mr Cosgrove's allegations. Given the startling nature of the claims, and the narrow basis for them, the newspaper should have contacted the complainant and published his position on the matter. Readers could then have made their own assessment as to the value of his comments in the context of the piece and in light of his reputation. But they were not given this opportunity. Another way of dealing with the problem would have been to offer Mr Burrell a prompt and proportionate right of reply immediately following publication. The offer to include the denial on the website, made at the end of the PCC investigation, was neither prompt nor proportionate.

It has never been an absolute requirement for newspapers to contact those who are about to feature in articles. This would be impractical for a number of reasons: often there will be no dispute about the facts, or the information will be innocuous; the volume of people mentioned in straightforward stories would make it impossible; and legitimate investigations might on some occasions be compromised by such a rule. However, in this case the newspaper made the wrong decision and the complaint was upheld.

Adjudication issued 18/11/2008