

Lord Foulkes v Sunday Herald

Clauses noted: 1

Lord Foulkes of Cumnock MSP complained to the Press Complaints Commission that an article headlined 'Lord Foulkes faces probe over legal consultancy', published in the Sunday Herald on 1 February 2009, was misleading in breach of Clause 1 (Accuracy) of the Code of Practice.

The complaint was not upheld.

The article reported that the peer and MSP, George Foulkes, was facing an investigation by Holyrood authorities. It said that a Scottish academic had complained to the Holyrood Standards Commissioner about Lord Foulkes undertaking lobbying and consultancy work for a law firm, Eversheds LLP. The article noted that, while peers are allowed to work for lobbyists or act as parliamentary consultants, the practice is outlawed at Holyrood.

Lord Foulkes said that he had been contacted by the newspaper prior to publication and had told the reporter that a complaint on the same basis had been made to the Standards Commissioner in 2008. That complaint had been dismissed as inadmissible on the basis that there was no evidence of his work for Eversheds being connected to his work as an MSP. Lord Foulkes said that the newspaper's failure to include this information meant that the article was misleading. He suggested that it was simply an opportunity to link him with four Labour peers who were being investigated over allegations that they were prepared to help amend laws in return for cash.

The week after the article appeared, the newspaper published a letter from the complainant, which set out the information about the earlier complaint. He said that this was an inadequate response to his complaint.

The newspaper said that the existence and dismissal of the previous complaint did not alter the fact that a new complaint had – or was about to be – lodged. Previous experience told the newspaper that the Standards Commissioner would not comment on individual cases and would not, therefore, be able to verify the substance of the earlier complaint.

Adjudication

There was no dispute that there had been a complaint to the Standards Commissioner. The Commission considered that the newspaper was entitled to publish this fact, and, in light of the complaint, to say that the complainant was 'facing' an investigation. It noted that the article did not give a view about whether or not his conduct was likely to be found in breach of the MSP code of conduct.

The question for the Commission was whether, in omitting a reference to the fact that a similar complaint had previously been dismissed, the article was misleading.

The Commission did not consider that it was necessary for the newspaper to have included this information in order to comply with the Code. The story was about a new complaint, yet to be decided by the Standards Commissioner. It did not seek to give a view about the merits of the complaint, and the piece in any case included a quote from the complainant expressing confidence that it would be dismissed. In these circumstances there was no obligation on the newspaper to publish a fuller explanation about why the complainant thought it would be dismissed. Nonetheless, the Commission was pleased that the newspaper published a letter from the complainant in the following edition, setting out the background in more detail.

Adjudication issued 01/05/2009