

Ken Livingstone v Daily Mail

Clauses noted: 1

Mr Ken Livingstone of London complained to the Press Complaints Commission that three articles, headlined "Ken escapes fine for rail fare 'dodge'", "Fare cop, but Ken gets expenses" and "Don't pay your rail fare fines, says Ken", published in the Daily Mail on 18 March, 19 March and 23 March 2009 were inaccurate and misleading in breach of Clause 1 (Accuracy) of the editors' Code of Practice.

The complaint was not upheld.

The articles concerned an allegation that, despite not having a ticket for a train journey from London Paddington to Slough, the complainant was not given a penalty fare. The newspaper contrasted this with the complainant's 'zero tolerance' policy on fare dodging when he was Mayor of London.

The complainant said that the paper's failure to contact him before publishing the articles led to the omission of some key facts: that a suicide on the Jubilee tube line had delayed his journey, meaning that he had arrived at the station just two minutes before the train's departure and with no time to buy a ticket; that the ticket collector on the train had not reached him before he arrived at Slough, meaning that he could not buy a ticket on board; and that he himself had approached station staff to say that he needed to purchase an extension ticket. It was inaccurate to suggest that he had 'admitted his error', had been 'warned not to do this again' or – as a witness had stated – 'had the good grace to look embarrassed about it'. He had not received preferential treatment or provoked a 'public furore' as the coverage had suggested. Indeed, the train company had confirmed that ten other passengers had avoided a fine for similar reasons.

He added that there was no question of hypocrisy as there had never been a policy of automatic fines when he was Mayor of London: revenue inspectors always had absolute discretion not to issue a penalty notice if a valid reason had been offered. A letter for publication had not been published but been partially quoted in the 23 March article. The record had not adequately been set straight.

The newspaper said that, as Mayor, the complainant had mounted several high profile campaigns on the subject of fare dodging, which was in any case a matter of much public debate. The story had come from a freelance journalist who was travelling to Slough on the same train as the complainant, and had seen him avoid a fine despite having no ticket. The reporter then spoke to the staff concerned and then to First Great Western, who did not mention ten other passengers being let off. The reporter had attempted to contact the complainant without success.

In any case, the complainant's explanation for not buying a ticket – that he had been forced to run for his train – was made clear in the 18 March article, and there had been no suggestion that he had deliberately tried to avoid buying a ticket. It was reasonable for the columnist on 19 March to claim that the story had caused a 'public furore'. The newspaper was entitled to draw on the complainant's letter for its article of 23 March – after all, he had wanted his comments published, and he had made some bold statements, including the attack on First Great Western, and the call to passengers who had been 'victimised' not to pay their fines.

The complainant said that the newspaper was fully aware of his contact details and had no excuse for its failure to contact him.

Adjudication

The two parties to this dispute agreed that the complainant had not been able to buy a ticket before travelling on the train to Slough. Whether or not this was newsworthy – something the complainant

seemed to dispute – was a matter for the editor of the newspaper. In publishing the story, however, the newspaper was obliged under the Code to take care not to publish any inaccurate information. Sometimes this will mean that it is necessary to contact the subject of a story to ensure that the information is correct. In this case, however, the freelance reporter was an eyewitness to the fact that the complainant did not have a ticket – which was the substance of the story – so there was no need to contact the complainant to find out whether it was true. The statements regarding the complainant being warned were attributed to a spokesman for First Great Western, and the suggestion that the complainant had looked embarrassed was attributed to a witness. Whether or not it was technically correct that the complainant had ‘admitted his error’ was not significant given that he had accepted that he had approached station staff to tell them that he did not have a ticket. The Commission also noted that the first report had correctly stated the complainant’s excuse for not having a ticket – that ‘he was late and had to run for the train’.

In these circumstances, while the account inevitably bore the interpretation of the reporter who had witnessed the event, there did not appear to be anything particularly inaccurate about it. There was therefore no obligation on the newspaper to publish the complainant’s letter. But given that the complainant had sent in some comments for publication, it was not unreasonable for the newspaper to have published some of them in the form of an article, particularly given the strident views that he expressed. This also set out his denial of the accusation, made by the Taxpayers’ Alliance, of hypocrisy.

The Commission considered that the critical statements made by third parties about the incident were sufficient grounds to support the columnist’s summary of the issue as a ‘public furore’. Finally, it did not consider that failure to mention that ten other individuals had avoided the fine – or that it was a ticket extension, rather than a full ticket – would have altered the general understanding of the situation or misled readers significantly in breach of Clause 1 of the Code.

Adjudication issued 11/06/2009