

Commission's decision in the case of various v The Guardian

The complainants were concerned that the comparison drawn between the cut to housing benefits and the Final Solution was both inaccurate and highly offensive. The Commission understood that readers may have found the use of the phrase "final solution" in the context of an article about benefits cuts unnecessary and offensive.

However, it made clear that journalists are entitled to express their opinions – however robust or controversial they may be – provided that they are clearly distinguished from fact. In this instance, the article had clearly been presented as a comment piece, and the Commission was satisfied that readers would understand that the views expressed in the article about housing cuts represented the commentator's personal opinions. It considered that Ms Toynbee had used the reference to "a final solution" in order to express her robust views on the housing situation and, as such, it did not consider that the reference would mislead readers as to the nature of the government cuts. It could not establish a breach of Clause 1 (Accuracy) of the Code.

The Commission understood the grounds on which the complainants had been offended by the reference to a final solution. However, it made clear that the terms of the Editors' Code of Practice do not address issues of taste and offence. The Code is designed to address the potentially competing rights of freedom of expression and other rights of individuals, such as privacy. Newspapers and magazines have editorial freedom to publish what they consider to be appropriate provided that the rights of individuals – enshrined in the terms of the Code which specifically defines and protects these rights – are not compromised. To come to an inevitably subjective judgement as to whether such material is tasteless or offensive would amount to the Commission acting as a moral arbiter, which can lead to censorship.

Clause 5 (Intrusion into grief or shock) was designed to prevent newspapers publishing material pertaining to an instance involving personal grief or shock in an insensitive manner, in order to protect individuals during the aftermath of such instances. While the Commission understood that the complainants found the reference to "a final solution" in the context of financial cuts to be insensitive, it did not consider that any general reference to the Holocaust in this manner amounted to a breach of Clause 5 (i) of the Code.

One complainant also expressed concern that the article was in breach of Clause 12 (Discrimination) of the Code. The Commission made clear that, while the clause prevented pejorative or prejudicial reference to an individual's religion or race, it does not cover generalised remarks groups of people. Given that the complainant considered that the reference to "a final solution" discriminated against Jewish people in general, the Commission could not establish a breach of Clause 12 (Discrimination) of the Code.

ENDS

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