

Dear Rachel:

On reviewing my evidence it became apparent that I probably misunderstood one of Lord Justice Leveson's queries - the one relating to misrepresentation.

It seems to me now that what he asked me was whether newspapers in Ireland had advanced, as part of their defence for an intrusion into someone's private life, the argument that the person concerned had misrepresented the quality of their private life in public.

I failed to grasp adequately the import of this question. My answer was coloured by the fact that although misrepresentation does appear in our Code, it features only in Principle 3, where it refers solely to misrepresentation by a journalist, and it does not appear in Principle 1 (Truth and Accuracy) or in Principle 5 (Privacy). The concept of a 'misleading' article is contained in Principle 1, and my inadvertent conflation of 'misleading' with 'misrepresentation' is why my reply related solely to Principle 1.

As I said in evidence, I have had no complaint whatsoever about intrusion into anyone's privacy based on Principle 1. As our websites demonstrate, however, we have had, and continue to get, frequent complaints about individuals relating to alleged invasions of their privacy under Principle 5 (Privacy).

Principle 5.4, however, does state that

"Public persons are entitled to privacy. However, where a person holds public office, deals with public affairs, follows a public career, or has sought or obtained publicity for his activities, publication of *relevant details of his private life and circumstances* may be justifiable where the information revealed relates to *the validity of the person's conduct, the credibility of his public statements, the value of his publicly expressed views or is otherwise in the public interest.*" (Emphasis added.)

Justification by a newspaper of its intrusion into a person's private life on the grounds italicised has arisen rarely, and not ever, to the best of my recollection, in relation to the sexual behaviour of a person "who has sought or obtained publicity for his activities". The most relevant case I can recollect is one where such a person complained about publication of material containing allegations about their private financial affairs. I accepted the newspaper's argument that this particular intrusion into their private life was justified in the public interest on the grounds that the financial institution concerned was simultaneously under public scrutiny for having allegedly by-passed its own procedures and conditions in the process of advancing sums of money to certain people, including the complainant. Because the complainant in this case opted for anonymity - as was their entitlement under our Data Protection legislation - there was, and still is, a limit to the detail I can give about this decision.

Yours sincerely,

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