

COMPLAINT ADJUDICATION

Stuart Campbell

and

The Ferret (online)

Clause 1. Accuracy

1.2. Publishers must correct any significant inaccuracy with due prominence, which should normally be equal prominence, at the earliest opportunity.

1.4. Whilst free to be partisan, publishers must not misrepresent or distort the facts.

Complaint Dismissed

No breach of Code

Before IMPRESS Regulatory Committee A

Walter Merricks (Chair), Iain Christie, Emma Jones, Máire Messenger Davies and Patrick Swaffer

16/08/2019

1. Summary of Complaint

- 1.1. The Complainant is Stuart Campbell, who describes himself as a third-party complaining about the inaccuracy of published information. The Complainant has said to IMPRESS that he is not a directly affected party and has no personal or business interest in the issues covered by the article. The complainant about article makes several references to reporting by the Wings Over Scotland Blog (which is published by the Complainant) on the findings of opinion polls, although those references do not form the basis of the complaint. The Committee considers that the Complainant can be directly affected by the outcome of the complaint, and is not a disinterested third party, but nothing in the adjudication turns on that question.
- 1.2. The Respondent is The Ferret Media Ltd, which publishes online as The Ferret, and is an investigative journalism platform co-operative for Scotland and beyond, that has been regulated by IMPRESS since 16 June 2016.
- 1.3. The complaint concerns the accuracy of an article that first appeared online on The Ferret on 2 July 2019, with the headline "*Claim of 82 per cent opposition to transgender self identification is Mostly False*".
- 1.4. The complaint is assessed against the IMPRESS Standards Code, the relevant clauses are:

Clause 1 (Accuracy)

1.2. Publishers must correct any significant inaccuracy with due prominence, which should normally be equal prominence, at the earliest opportunity.

1.4. Whilst free to be partisan, publishers must not misrepresent or distort the facts.

2. Background

- 2.1. The subject of the article was the accuracy of polling figures used in a leaflet distributed by ForWomen.scot; the article states that the Ferret was asked to fact check the claim in the leaflet by "*someone in Edinburgh*". The claim made in the ForWomen.scot leaflet was that "*82% of voters disagree with the Government's plans to amend the Gender Recognition Act to allow a man to self-identify as a woman*". The article sets out that the poll, which the claim in

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the ForWomen.scot leaflet was based on, showed 58% of respondents thought a trans person should have to provide doctor's approval to change their legal gender on official documentation (e.g. birth certificate, passport); 18% said doctor's approval was not necessary, and 23% said that they did not know. The article is part of a series of fact checking articles, where the Ferret assigns various claims with a rating on a six-point ascending scale, from 'True' (point one) to 'FFS!' (point six). The article stated that the ForWomen.scot leaflet claim was 'Mostly False' (point four) and explained that this meant the claim "*may contain a kernel of truth but leaves out facts which lead one to a different impression*".

2.2. The article also explained that the context for the leaflet was a public debate in Scotland surrounding a proposed law before the Scottish Parliament that intends to make it easier for trans people to self-identify their gender.

3. The Complaint

3.1. The Complainant contacted the Ferret on 2 July 2019 and made a complaint on the grounds of accuracy. The Ferret dismissed the complaint and informed the Complainant that they could escalate their complaint to IMPRESS. A full copy of correspondence between the parties was provided to the Regulatory Committee.

3.2. The Complainant subsequently made a complaint to IMPRESS, and after seeking clarification of the basis for the complaint, IMPRESS confirmed the substance of the complaint as follows, a full copy of which was provided to the Committee.

3.3. The Complainant argues that a breach of Clause 1.4 of the IMPRESS Standards Code has occurred. The Complainant disagrees with the use of the headline and the conclusion of the article, which gave the claim made in the ForWomen.scot leaflet a "Mostly False" rating. The Complainant says that to describe the claim made in the leaflet as "Mostly False" is a significant misrepresentation of the facts.

The relevant statements from the article are:

Claim of 82 per cent opposition to transgender self-identification is Mostly False

Ferret Fact Service looked at this claim and found it to be Mostly False.

Mostly False – The claim may contain a kernel of truth but leaves out facts which lead one to a different impression.

- 3.4. In support of his case, the Complainant states that the ForWomen.scot leaflet gives readers the impression that the majority of voters are against self-identification, which the Complainant says is true; the Complainant says that the margin between those opposed to the proposal in the poll compared to those who agree with the proposal, 58% compared to 18%, is a *huge* margin and therefore anyone reading the accurate numbers would still form the same impression, as was implied in the leaflet. Furthermore, the Complainant says that the leaflet's wording is technically inaccurate and slightly disingenuous spin, but its underlying implication, that the proposals in the poll are opposed by voters, is truthful.
- 3.5. "The Complainant says that if you discount the 'Don't Know' responses from the polling data the figures amount to 24% agree with the proposals versus 76% who disagree; the Complainant considers that 76% is only marginally different to 82%, which is the figure claimed by the ForWomen.scot leaflet. The Complainant says that both 76% and 82% round to four out of five, or, to eight out of 10. The Complainant says that the Publisher's rating of "Mostly False", therefore, has been incorrectly applied in this case. The Complainant notes that by the Ferret's own preferred figures, 58%-18% is in fact an even larger ratio of opposition (3.2 to 1) than 74%-26% (2.8 to 1). The Complainant notes that the core disputed claim of the leaflet is that voters are strongly opposed to the proposals, and that whether the margin is presented as 74%-26% or 58%-18% that claim is true, and 'quibbling' over the precise numbers does not make that claim any less truthful. The Complainant also says that the standard cited by The Ferret in its response is unrealistic and over-literal, and he suggests that even if the true figure had been 80% or 81% rather than 82%, it would have, by that logic, had to give that claim a "Mostly False" rating, which would be 'absurd'.
- 3.6. The Complainant says that his view is that The Ferret is fully entitled to draw attention to the Don't Know figures in the article text and to make the appropriate qualifications and clarifications in its verdict, but that the leaflet's underlying point is 'indisputably and substantially true', and therefore the proper applicable rating from the Ferret's rating scale would have been the "Mostly True" rating, and that rating would have been an honest, fair and accurate assessment of the ForWomen.scot leaflet's claim.

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3.7. Regarding Clause 1.2, which requires Publishers to correct any significant inaccuracy with due prominence, the Complainant states that the headline and conclusion of the article is inaccurate, and that this amounts to a significant inaccuracy requiring correction.

3.8. IMPRESS provided the Complainant with the Ferret's response (included in Section 4 below) and gave the Complainant the opportunity to provide a final reply to that response.

4. Response of Publication

4.1. IMPRESS invited the Ferret to provide additional information in response to the Complaint. The Publisher's response is summarised below.

4.2. Regarding Clause 1.4, the Publisher says that it did not misrepresent or distort the facts. Instead, the Publisher says that the statement that was being fact checked was that 82 per cent of those polled were against transgender self-identification and that this clearly was not the case.

4.3. In support of its position the Publisher says that the article in question was produced as part of the Ferret Fact Service (FFS). A page on the Publisher's website titled "Ferret Fact Service" and which is hyperlinked to, inline, in the article, states that "*The decision on how to rate a claim is taken by the Ferret Fact Service editorial panel, which is made up of the fact checker along with two editors, who will review each article and suggest edits or changes*" and "*Sometimes you may agree with the conclusion we come to and sometimes you may disagree*".

4.4. The Publisher says that the fact-checking service is non-partisan and checks the veracity of statements by politicians, pundits and public bodies about issues the public are interested in. It says that the Ferret Fact Service works to the Poynter Institute's International Fact-Checking Network fact-checkers' code of principles. Further, guidance issued by the Poynter Institute on the use of opinion polls states that journalists should report on the percentage of "don't knows" stating that omitting this segment means a big part of the story is missing.

4.5. The Publisher says that to conclude the statement was "mostly true" would be to affirm the misrepresentation of the position as presented by ForwomenScot; that the statement being fact checked was that 82 per cent were opposed to transgender self-identification; and that the verdict was "mostly false". The

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Publisher says that the survey, instead, showed 58 per cent were opposed. Further, it says that the fact check did provide commentary on the wider context.

- 4.6. The Publisher notes that one complaints panel member had concluded “This seems to come down to a qualitative vs quantitative assessment of the veracity of the claim. The Complainant takes a qualitative view (i.e. "the figures aren't a million miles off so therefore they're pretty much true") whereas the verdict is more based from a quantitative assessment ("a specific figure of 82% was arrived at through faulty interpretation of survey data, therefore it's false even if there is a kernel of truth that it is most people surveyed"). Therefore I think that the FFS check verdict is absolutely defensible, but it might be possible to be more explicit about reasoning given that a reader could indeed interpret the figures in a more qualitative manner in a case such as this where there is a disputed numerical figure on a finite scale of possibility.”
- 4.7. The Publisher notes that the other complaints panel member had concluded “The quote was that 82% of voters disagree with the government’s plan to amend the Gender Recognition Act to allow any man to identify as a woman. The survey that statement was based on was a YouGov survey that asked the question, should or should not a person have to obtain a doctor’s approval to change their legal gender on an official document. 18% said that they should not; 58% said that they should; 23% said that they didn’t know. Therefore, the position of the fact check could be defended on the basis that, in this survey, 58% disagreed with the plan, 18% agreed and 23% didn’t know, which is very different from 82% disagreeing.”
- 4.8. Regarding Clause 1.2, the Publisher says that it informed the Complainant that their complaint was dismissed therefore no correction would be made.
- 4.9. A full copy of the Publisher’s response and further comments were considered by the Regulatory Committee in determining the outcome of the complaint.

5. Compliance with the IMPRESS Regulatory Scheme

- 5.1. The Ferret complied with the requirements of the IMPRESS Regulatory Scheme (Paragraph 3.2), by acknowledging the complaint within seven calendar days, issuing a final decision letter within 21 calendar days, and by informing the Complainant of their right to refer the complaint to IMPRESS.

6. The Committee's Conclusions

- 6.1. Clause 1.4 of the IMPRESS Standards Code states that whilst free to be partisan, publishers must not misrepresent or distort the facts. The Committee considered that all the information relevant to the assessment of the accuracy of the ForwomenScot leaflet was included in the article. The Committee decided that the headline, text and conclusion must be read and considered together in that context. The Committee considered that the ordinary reader would have understood that the Publisher's conclusion about the accuracy of the leaflet and the Ferret Fact Checking Service rating as "mostly false" were statements of the Publisher's own qualitative evaluation or opinion rather than factual statements. The Publisher further made clear to readers, as part of an explanation of its fact-checking methodology, that readers could disagree with their conclusion. By inviting readers to form their own view on the information in this way, the Publisher affirmed that the statement "Mostly False" was an expression of opinion rather than a statement of fact.
- 6.2. The Committee therefore considered that the Publisher had not misrepresented or distorted the facts and therefore had not breached Clause 1.4 (misrepresentation or distortion of facts).
- 6.3. Clause 1.2 of the IMPRESS Standards Code requires publishers to correct significant inaccuracies. The Committee considered that given there was not a breach of Clause 1.4 there was no requirement for the Publisher to publish a correction and that the Publisher had not breached Clause 1.2 (corrections of significant inaccuracies).