

COMPLAINT ADJUDICATION

SIMON JUST

and

BYLINE

Clause 1. Accuracy

1.1 Publishers must take all reasonable steps to ensure accuracy.

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

Complaint upheld

Breach of Clauses 1.1 and 1.2 (Accuracy)

Before IMPRESS Regulatory Committee A

**Walter Merricks (Chair), Iain Christie, Máire Messenger Davies, David Leigh
David Robinson, Andrea Wills.**

23 January 2018

1. Summary of Complaint

- 1.1. The Complainant is Simon Just, a third party seeking to ensure the accuracy of published information. He has confirmed to IMPRESS that he is not an affected party or the representative of an affected party.
- 1.2. The Publisher is Byline, a news website covering current affairs, that has been regulated by IMPRESS since 14 September 2016.
- 1.3. The complaint concerns the accuracy of an article by Mark Watts (the Author) that first appeared on Byline on 4 October 2017 with the headline "*Operation Conifer: Mike Veale 'appalled by previous cover-ups over child sexual abuse'*".
- 1.4. The complaint is assessed against the IMPRESS Standards Code. The relevant clauses are:

Clause 1 (Accuracy):

- 1.1 Publishers must take all reasonable steps to ensure accuracy.*
- 1.2 Publishers must correct any significant inaccuracy with due prominence, which should normally be equal prominence, at the earliest opportunity.*

2. Background

- 2.1 The article began by reporting that Wiltshire Police Chief Constable, Mike Veale, was appalled by the discoveries of Operation Conifer, his force's investigation into child sexual abuse allegations made against Sir Edward Heath.
- 2.2 The article went on to reveal some of the findings of Operation Conifer, before stating:

“Meanwhile, the picture above of Heath in a small sailing boat with what appears to be a teenage boy and an adult male has emerged (there is a better crop of the picture on the FOIA Centre’s website). It is not thought to have been published before, but is understood to have been taken in Jersey in 1972, while Heath was prime minister. It’s copyright owner is unknown. Anyone with information about the picture is asked to come forward.”

2.3 At the top of the article was a photograph that featured Sir Edward Heath from the waist up holding an oar. Readers could click through to the FOIA Centre’s website from a hyperlink embedded in the above text to view the full photograph, which also featured an adult male and what appeared to be a teenage boy, from behind.

2.4 Shortly after publication, the article was updated to include additional text below the above paragraph. The update stated that readers have, as requested, provided further information about the picture which appears to confirm that it was taken in Nice in 1965. The update went on to name a friend of Sir Edward Heath and his 15 year old son, who is one of Heath’s godsons, as the other people in the picture.

3. The Complaint

3.1. The Complainant e-mailed the Publisher on 5 October 2017 to complain about the accuracy of the article and Byline responded to the Complainant on 7 October 2017 rejecting the complaint on the grounds that the original article was not misleading, and that a clarification had already been published by that time.

3.2. On 16 October 2017, the Publisher provided additional information from the Author explaining that an anonymous source had passed him the photograph

Case Ref: 0091/2017

and told him that it had been found in an overseas newspaper archive, captioned as having been taken in Jersey in 1972. It went on to explain that the Author had tried to discover the provenance of the photograph via a reverse-images search. The Publisher also provided the Complainant with a response from the Author regarding the Complainant's belief that including the photograph implied that Sir Edward Heath had acted inappropriately with the teenage boy pictured:

"There is no implication whatsoever in what was published that Heath had sexually abused the boy in the picture. I clearly do not say anything along those lines, and neither was I implying it. As someone who has worked with abuse survivors for five years, I was fully conscious that identifying a victim of child sexual abuse was inappropriate and in fact illegal under the Sexual Offences Act. If I had reason to believe that Heath had sexually abused the boy I would have cropped him out of the picture for fear that he might be identified (albeit that you only see the back of his head)".

3.3. The Publisher concluded by stating that, on balance, it believed that the Author had carried out appropriate research; that there was no malicious intent in the publication of a request for more information about the photograph; and that the update to the article had rapidly rectified any potential confusion.

3.4. The Complainant escalated his complaint to IMPRESS on 16 October 2017 and, after considering a number of preliminary issues, IMPRESS subsequently confirmed the substance of the complaint in an email to the Complainant, as follows:

"[The Complainant] alleges that the date and location of the photo could easily have been discovered via internet research, and that the image may have been lifted from a Pathé News film available on YouTube:

'Had Mr Watts searched Google for the term "Ted Heath Holiday" the video of the 1965 Holiday in France would've appeared at the top of the Google search (or at very least on the first page).'

The Complainant also considers that, in the context of the article, the photograph and accompanying text misleadingly implied that Sir Edward Heath may have abused the boy in the image while he was Prime Minister, and that it was the police who were seeking further information about the photograph, rather than the author of the article.

The Complainant is aware of the actions taken by Byline to amend the article after it was revealed that the stated date and location of the photograph were inaccurate, but he does not consider that the actions taken were adequate to correct what he considered to be a significant inaccuracy in the original article:

"The subsequent amendment was not placed with due prominence... it was certainly not of equal prominence as the headline etc. remained the same."

The Complainant contends that the inaccuracy of the original article, and the subsequent actions taken by Byline to amend the article, resulted in breaches of the following clauses of the IMPRESS Standards Code:

Clause 1.1 'Publishers must take all reasonable steps to ensure accuracy.'

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

- 3.3 IMPRESS provided the Complainant with a full copy of the Publisher's response (summarised in Section 4 below) and gave him the opportunity to provide a final reply to that response. Additional information provided by the Publisher in response to a proposed adjudication was also shared with the complainant.
- 3.4 The Complainant said that, given that Byline had admitted the photograph was from the same holiday as that shown in the Pathé News film, in his opinion it was irrelevant that the photograph may not have been lifted directly from that footage. The Complainant advised that if the term "Edward Heath holiday" was searched for on Google then the Pathé News film would appear near the top of the search results, and so could easily have been cross-referenced by the Publisher. The Complainant expressed the view that a reverse-images search alone was not sufficient to meet the requirement in Clause 1.1 of the IMPRESS Standards Code that publishers must take all reasonable steps to ensure accuracy.
- 3.5 The Complainant did not consider that the Publisher had addressed his belief that accompanying an article about Operation Conifer with the photograph in question, and asking people to come forward with information about it, had wrongly implied that the photograph was related to the potential child abuse of the boy in the photograph, by Sir Edward Heath during the time that he was Prime Minister. The Complainant also reiterated that he considered the request for information had been framed to sound as though it was the police who were seeking further information about the image, in connection with Operation Conifer, rather than just the Author.
- 3.6 The Complainant told IMPRESS he considered that the article should have been removed in its entirety once it became known that the information about the photograph was incorrect.

4. Response of Publication

4.1. IMPRESS invited the Publisher to respond to the complaint on 7 November 2017. A response was received from Byline on 14 November 2017. A detailed response to a proposed adjudication that was sent to the parties on 18 December 2017 was also received from Byline. Byline's response to the proposed adjudication included e-mails from the Author of the article dated 19 and 20 December 2017 and 10 January 2018.

4.2. The Publisher considered that the first version of the paragraph complained of had simply been framed as a suggestion and a request for more information, after the anonymous source that passed the photograph to the Author had suggested it was from 1972.

4.3. The Publisher disputed that the provenance and date of the photograph was easily accessible by carrying out an internet search and noted that it was not part of the Pathé archive, or a screen grab from the 1965 documentary. It quoted a response from the Author of the article in relation to that point, as follows:

"In order to test the claim that it had not been published before, and to see whether the copyright owner and other details such as location, year and identification of the other two people in the shot, could be established, I carried out a reverse-images search and there were no returns. This supported the claim that it had not been published before, although it was not conclusive (hence my reference in the article to "It is not thought to have been published before.

Case Ref: 0091/2017

If you carry out a reverse-images today, as I have just done, there are several returns. These images are plainly the same crop as the one that appears on the FOIA Centre (i.e. not the uncropped version passed to me), and have been uploaded on other sites after it appeared on Byline/FOIA Centre on October 4”.

4.4. The Author of the article stated that in addition to carrying out a reverse-images search, he carried out extensive searches with an array of search items in order to find out further information about the picture.

4.5. The Publisher reiterated that a reverse-images search did not, and still does not, return the Pathé film on YouTube, or anywhere else, which it considered was clearly because the photograph had not been taken from the Pathé film, although it appeared to have been taken on the same occasion.

4.6. The Author further explained why none of the searches proposed by the complainant could have occurred to him.

“the suggestion that I should have searched “Edward Heath holiday” was an example of “a priori” logic. As such, it is a ridiculous contention. One might suppose that such a search could have provided information about the picture, but this would require the knowledge that the picture had been taken on a holiday. Edward Heath was well known for sailing rather than holidays, and one might have expected searches to see whether the picture had anything to do with a sailing trip, as I indeed carried out, rather than a holiday. In any event, contrary to the assertions in the passage above, a Google search of “Edward Heath holiday” neither returns the Pathé footage near the top of the search results nor on the first page”.

- 4.7. The Publisher advised that, on the basis of the above information, it considered that the author of the article had approached the origin of the photograph with appropriate caution.
- 4.8. The Publisher said it agreed with the principle that corrections should be as prominent as the original assertion but, given that the question surrounding the time and place of the photograph had not been referenced in the headline, which referred to the rest of the story which remained unchanged, it was satisfied that the corrective action taken when the proper origin of the photograph was discovered was appropriate.
- 4.9. The Author further explained that in updating the article he felt it had been necessary to identify the teenage boy in the better crop of the picture because of recent public comments he was known to have made to defend Sir Edward Heath from accusations of child sexual abuse in the wake of Operation Conifer.

5. Compliance with the IMPRESS Regulatory Scheme

- 5.1. Byline operates as a crowdfunded platform for news and does not editorialise content published by the journalists that it partners with. However, journalists who publish articles on the Byline platform agree to abide by the IMPRESS Standards Code, to co-operate with IMPRESS investigations and to comply with any remedies required by IMPRESS where a breach of the Standards Code has been found. The response to this complaint has therefore been provided by Byline based on information provided by the Author who posted the article on the Byline platform. The Author of the article also contacted IMPRESS directly to provide additional information in response to a proposed adjudication, which Byline agreed to put forward as its own response.

5.2. Byline has complied with the requirements of the IMPRESS Regulatory Scheme (Paragraph 3.2), by acknowledging the complaint within seven calendar days and issuing a final decision letter within 21 calendar days.

6. The Committee's Conclusions

6.1. The IMPRESS Standards Code states that publishers must take all reasonable steps to ensure accuracy. The article included a picture of Sir Edward Heath with accompanying text which invited readers to view 'a better crop of the picture' on the FOIA Centre's website, that showed him in a small sailing boat with what appeared to be another adult male and a teenage boy. The article inaccurately stated that the image was 'understood' to have been taken in Jersey in 1972 while Sir Edward Heath was prime minister when in fact this was based solely on a claim by the anonymous source who had provided the image, which was subsequently proved to be incorrect. The picture proved to be a news photograph of a holiday in Nice in 1965, linked to published Pathé newsreel footage of the time.

6.2. A Google reverse-images search had been undertaken by the Author in an attempt to establish whether the image had previously been in the public domain. The Author also told IMPRESS that he undertook extensive searches with an array of search items in order to find out further information about the picture. None of these searches enabled the Author to determine copyright ownership of the photograph or to verify its date and location. Guidance to the IMPRESS Standards Code reminds publishers that when assessing whether reasonable steps have been taken, consideration should be given to the likely reliability of the source(s) being used. Publishers are also reminded a story may mislead through the omission of a crucial fact, or facts, as well as through the inclusion of inaccuracies.

- 6.3. By publishing an invitation to readers to click through to a better crop of the picture, alongside inaccurate information about the date and location of the picture, having been unable to verify its provenance and taking account of the sensitive subject matter of the article, the Committee concluded that the Publisher had breached clause 1,1 of the Standards Code by not taking all reasonable steps to ensure accuracy.
- 6.4. The IMPRESS Standards Code also requires publishers to correct any significant inaccuracy with due prominence at the earliest opportunity. The IMPRESS guidance makes clear that this includes images, which must be accurate representations of the stories they accompany. Placing the image and instructions to click through to a better crop of the picture alongside an article about Operation Conifer, and accompanying it with text which implied that it had direct significance to the substance of that investigation, when that was not the case, amounted to a significant inaccuracy
- 6.5. Additional information about the picture had been inserted into the body of the article after readers came forward with details of the correct location and year the photograph was taken, along with the identities of the parties pictured who were family friends of Sir Edward Heath. However, this was insufficient to correct the significant inaccuracy in the original article. The click through to a better crop of the picture and the part of the article that referenced it should have been removed after it became clear that it bore no direct relevance to the story, with a correction published at the top of the article to explain its removal. This failure to correct a significant inaccuracy with due prominence led to a breach of clause 1.2 of the Standards Code.

7. Remedy

7.1. A proportionate remedy for the breach would be for Byline to remove the click through to a better crop of the picture and the references to it in the body of the article. Byline should publish a short correction with a link to the full adjudication, which should be published towards the top of the homepage of Byline for 48 hours and released on the same social media channels as the original article. The original article should also include the correction for as long as it continues to be published on Byline. The correction should read as follows:

Correction to article published on Byline on 4 October 2017

An article first published by Mark Watts on Byline on 4 October 2017 under the headline "Operation Conifer: Mike Veale 'appalled' by previous cover-ups over child sexual abuse", contained an image of Sir Edward Heath with an invitation to readers to click through to a better crop of the picture on the FOIA Centre's website which showed him in a small sailing boat with what appeared to be another adult male and a teenage boy. The article stated that the photograph was understood to have been taken during his time as prime minister. It subsequently became clear that the information provided about the photograph was incorrect. IMPRESS found that the journalist posting the article on Byline had not taken all reasonable steps to ensure accuracy prior to publication. Placement of the image and instructions to click through to a better crop of the picture, alongside an article about Operation Conifer, with information that implied that it had direct significance to the substance of that investigation, led to a breach by Byline of the IMPRESS Standards Code. An updated version of the article also breached the Code because it did not adequately correct that significant inaccuracy. Byline has now removed the

The logo for IMPRESS, consisting of the word "IMPRESS" in a bold, black, sans-serif font, centered between two thick, solid black horizontal bars.

Case Ref: 0091/2017

link to 'a better crop of the picture' and the references to it in the article, in line with an adjudication by IMPRESS. Click [here](#) to read the full adjudication.