

COMPLAINT ADJUDICATION

PAUL TROTMAN

and

CAERPHILLY OBSERVER

Clause 1. Accuracy

- (i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by text.**

- (ii) A significant inaccuracy, misleading statement or distortion must be corrected promptly and with due prominence, and – where appropriate – an apology published”**

Complaint dismissed

No breach of Clause 1 Accuracy (i) and (ii)

11 July 2017

1. Summary of Complaint

1.1. The Complainant is Paul Trotman, a third party seeking to ensure accuracy of published information. He has confirmed to IMPRESS by e-mail dated 31 May 2017 that he is not an affected party or the representative of an affected party.

1.2. The Respondent is Caerphilly Observer, a news, sport and information website and free fortnightly printed newspaper covering Caerphilly County Borough in South Wales, that has been regulated by IMPRESS since July 2016.

1.3. The complaint concerns the accuracy of an article that first appeared in the Caerphilly Observer Online on 5 January 2017 with the headline "*What is going on? The full story of the £2.5m council pay scandal*". The article was also published as a two-page spread in the print edition of the Caerphilly Observer.

1.4. The complaint is assessed against the Editors' Code of Practice, which was the standards code adopted by IMPRESS at the time the article complained about was first published. The relevant clauses are:

Clause 1: Accuracy

- (i) *The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by text, and*

(ii) A significant inaccuracy, misleading statement or distortion must be corrected promptly and with due prominence, and – where appropriate – an apology published.

2. Background

2.1. The article tells the story of a long running pay controversy involving senior officers at Caerphilly County Borough Council that goes back to June 2012. It describes how councillors at Caerphilly County Borough Council agreed to the establishment of a sub-committee to oversee pay arrangements of the local authority's chief executive, directors and its head of service. The article explains how the Council's chief executive drafted a report for the subcommittee to consider, at a meeting held on 5 September 2012, which recommended a pay-rise for himself and other senior officers of nearly 30%.

The article reports that the subcommittee agreed to the recommended pay rises. The article refers to the subcommittee meeting as:

“the secret meeting, which was not publicised beforehand, did not have any (detailed) minutes (taken) and there is a dispute over how councillors voted”.

The word “detailed” was added and the word “taken” was deleted on 12 March 2017, three months after the article was first published.

2.2 The article then goes on to report how news of the pay increase was leaked to the Western Mail in December 2012, resulting in a huge backlash from the public and trade unions representing council staff. It explains how a compromise deal was struck which kept the new pay structure and reduced

the pay rises of senior officers. It reports that this did not prevent the Wales Audit Office launching an investigation into the matter and that in March 2013 the Wales Audit Office published a report which was highly critical of the council's decision-making process. The article reports how this led to a criminal investigation which resulted in the chief executive, deputy chief executive and head of legal services being charged for offences of Misconduct in a Public Office and suspended from the local authority. The article explains that a judge threw out the case in October 2015, citing a lack of evidence against the three. At this point the article reports that the local authority resumed disciplinary proceedings against the three officers which had been put to one side while the criminal investigation was carried out. It goes on to report that the suspensions were secretly lifted by the council in March 2016 with the three men going on "Special Paid Leave" until the disciplinary proceedings were concluded. It reports that the council had confirmed that the cost of the pay "scandal" would rise above £2.5 million in March 2017. The article concludes by reporting that the council's internal disciplinary proceedings were ongoing and the matter remained unresolved.

3. The Complaint

3.1. The complaint is made about the accuracy of lines 31-32 of the article which appear half way down the section subtitled "*The Beginning*" and which were first published on 5 January 2017. The relevant lines read "*The secret meeting, which was not publicised beforehand, did not have any minutes taken and there is dispute over how councillors voted*".

3.2. The Complainant e-mailed Caerphilly Observer on 12 March 2017 to object to the inaccuracy of the article.

“This is not true. Minutes of the meeting were taken. Those Minutes were then reported, at the very first opportunity, to full Council on 9 October 2012 with more than 70 Councillors and the press and public in attendance at that meeting. The Minutes were published on the Council website on 6 October 2012 and have been there ever since. Please publish a correction”.

3.3 Richard Gurner, Editor of Caerphilly Observer made a same-day response to the Complainant on 12 March 2017 in which he explained that:

“There are no publicly available minutes outlining the exact details of the decision made to award the pay rises by the senior remuneration committee at its meeting on September 5, 2012. This is what the sentence you cite is referring to. However, there are minutes published although both the Wales Audit Office and the Public Ombudsman for Wales has criticised them for their lack of detail”.

3.4 Richard Gurner thanked the Complainant and confirmed that he had amended the online version of the article to include the word “detailed” as follows:

*“The secret meeting, which was not publicised beforehand, did not have any **detailed** minutes and there is dispute over how councillors voted”.*

3.5 The Complainant replied to Richard Gurner on 16 March 2016, asking Caerphilly Observer to publish a clear correction.

“What you have done in ‘secretly’ altering your January article without publicising the fact demonstrates a lack of the ‘openness and

transparency' which you seek to promote. I trust you will now promptly publish a full correction"

3.6 The Complainant explained that the Minutes had been available to anybody on the Council website for more than four years. The Complainant also challenged Mr Gurner to substantiate his claims that the Public Services Ombudsman had criticised the Minutes and that the issue of how councillors had voted was a matter of dispute.

3.7 Having not received a response to his reply e-mail of 16 March 2017, the Complainant sent a chaser e-mail on 22 March 2017, to which Mr Gurner made a same day response. In his response Mr Gurner argued that the disputed sentence did not constitute a significant inaccuracy and this was the reason he would not be publishing a full correction:

"Whilst minutes do exist, they are redacted minutes – the full contents of which have never been revealed publicly. The Minutes, as published on the council website, only reveal that the meeting took place and who was in attendance. The details of how councillors voted and what advice was given to councillors by officers have never been revealed For example, a student could submit to their tutor a piece of paper with just their name and essay title on it. The student would argue they had submitted an essay, while their tutor would certainly argue they had not. I believe the same logic can be applied here and as such I will not be publishing a full correction"

3.8 Mr Gurner went on to address the Complainant's concerns about whether the Public Services Ombudsman had criticised the Minutes and about whether there was a dispute over how councillors voted. Mr Gurner also attached a copy of the Ombudsman's report in his response to the

Complainant. Mr Gurner concluded his second response to the Complainant by saying:

“If you are unhappy with this decision you can of course contact our regulator IMPRESS, which is currently using IPSO’s Editors’ Code of Practice as its standards framework”

Mr Gurner then went on to provide the Complainant with the full contact details for IMPRESS.

3.9 On 30 March, the Complainant sent a further e-mail to Mr Gurner. In his reply the Complainant expressed strong disagreement with the reasons given by Mr Gurner for not publishing a correction. He also criticised the Caerphilly Observer for not expanding on the story behind the disputed voting at the subcommittee meeting.

“Your arguments about the brevity of the Minutes are semantics and unworthy of further comment”

“Not only have you failed to pursue this pretty obvious line of inquiry, based upon an Ombudsman report that is not available to the public, but you have instead made a factually misleading statement in public and now declined to publish a correction”

3.10 After sending a chaser e-mail on 12 April 2017, the Complainant did not receive a further response from Mr Gurner and then went on to make a complaint to IMPRESS on 5 May 2017, four months after the article was first published, as follows:

“Richard Gurner has ignored my e- mails and declined to print a correction to what appears to be a deliberately misleading article on a controversial subject”.

3.11 IMPRESS exchanged e-mails with the Complainant to seek additional information about his previous correspondence with Caerphilly Observer and to clarify the substance of the complaint. Mr Trotman complained that:

“My subsequent emails (also attached) and Mr Gurner’s responses, or failure to respond, make it clear that he has not addressed my primary concern which is the deliberate inaccuracy of the original article where he stated that ‘no minutes of the meeting were taken’. Mr Gurner was fully aware of the fact that minutes existed as is abundantly clear from his initial e-mail responses to me and his subsequent silence. He is clearly hoping that the matter will ‘go away’. (He has also repeatedly used the pejorative term ‘scandal’ in an effort to stoke controversy and increase his circulation). It is made worse by the fact that I believe Mr Gurner was actually present at the meeting of the Caerphilly Council in October 2012 where the Minutes were first presented to the public”

3.12 The Complainant argues that this matter has been the subject of many articles in Caerphilly Observer. In support of this statement he sent a link to an article that appeared in HOLDTHEFRONTPAGE.co.uk on 16 May 2017 about the 100th printed edition of Caerphilly Observer. Richard Gurner, Editor of Caerphilly Observer is quoted as saying *“There are so many stories from our communities that need to be told – from the local Scout group litter picking, to the pay scandal at the top of Caerphilly County Borough Council”.*

3.13 IMPRESS subsequently confirmed the substance of Mr Trotman's complaint with him by e-mail dated 24 May 2017 as follows:

"The complainant contends that the inaccuracy of the article (with reference to the sentence beginning The Secret Meeting on line 31) and subsequent refusal of the Caerphilly Observer to publish a correction has led to two breaches of the Editor's Code of Practice:

Clause 1 (i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by text.

Clause 1 (ii) A significant inaccuracy, misleading statement or distortion must be corrected promptly and with due prominence, and – where appropriate – an apology published"

3.14 IMPRESS provided the Complainant with a copy of the full response of the Caerphilly Observer (summarised in section 4 below) and gave him the opportunity to provide a final reply to the publisher's response. Mr Trotman took this opportunity to explain the purpose and function of minutes taken of local government meetings and to cite other published minutes to argue that the minutes of the Senior Remuneration Committee were not atypical of others published by the Council in terms of style and content.

"Minutes of course are just that. They are not transcripts. Meetings held under the provisions of the Local Government Act are necessarily held in private to protect the rights of individuals. These are not 'secret' meetings. This is the normal everyday business of the public sector..... The Caerphilly Council website is littered with similar

minutes. I attach copies of recent meetings of the Caerphilly Pensions Committee and Investigating and Disciplinary Committee which I have downloaded from the Caerphilly Council website. None of these minutes, quite rightly, and in accordance with the provisions of the Act, provide any detail of the discussion which took place at any of those meetings. The Minutes are certainly not 'meaningless' as suggested by Mr Gurner but are an accurate and very important public record of decisions taken by democratically elected public representatives, whose names are recorded in the public record".

4. Response of Publication

4.1. IMPRESS invited Caerphilly Observer to provide additional information in response to the Complaint. A response was received by email from Richard Gurner on 12 June 2017. As part of his response Mr Gurner disclosed e-mail exchanges with the Complainant dated 12 March, 16 March, 22 March, 30 March, 12 April and 5 May. Mr Gurner disclosed two additional documents in support of his response (i) Minutes of the Senior Remuneration Committee of Caerphilly County Borough Council held on Wednesday 5th September 2012 and (ii) the determination of a complaint made against Councillor James Fussell by Public Services Ombudsman for Wales, dated 6 September 2016. Mr Gurner also made reference to the Wales Audit Office Report into Caerphilly County Borough Council, which IMPRESS subsequently downloaded from <https://www.wao.gov.uk>.

4.2. Mr Gurner did not dispute the fact that the original article published on 5 January 2017 claimed that *"the secret meeting.....did not have any minutes taken"*. He explained that:

*“At the time of writing the article I had in mind the Wales Audit Office’s criticism of the record keeping of the meeting. The WAO said the minutes of the meeting were brief, with no adequate record of the discussions that took place or if the decision was unanimous – in effect, minutes were not taken. However, when Mr Trotman pointed out that the minutes were available, I double-checked online and recognised that the language I used could have been clearer and thanked him. I amended the copy online to read...”the secret meeting...did not have any **detailed** minutes (taken)”*

4.3 IMPRESS invited Mr Gurner to explain why he felt it unnecessary to publish a full correction. He responded as follows:

“I felt the inaccuracy did not pass the threshold for a full correction in that it was not a significant inaccuracy in that it did not fundamentally change the story. Also, a full correction would have meant a sizeable explanation to our readers to put the correction in context – in short it would have taken a lot of time and effort for a zero net change in the fundamentals of the story”.

4.4 Mr Gurner referred back to his correspondence with the Complainant in which he explained his position and responded to his complaint. He explained that he decided to refer the complainant to IMPRESS because *“I had a sense that whatever I said, Mr Trotman would take issue with it”*. Mr Gurner says in hindsight that he should have stated that he would not be corresponding further with the complainant.

4.5 Mr Gurner rejects the allegation that he has sensationalised the story by referring to it as a ‘scandal’ in an effort to stoke up controversy and increase circulation. He stands by his description of the story as a ‘scandal’.

Mr Gurner says that he was not actually present at the meeting when the minutes were presented to Council.

5. Analysis

5.1. When the article was first published in Caerphilly Observer on 5 January 2017, it reported that *“The secret meeting, which was not publicised beforehand, did **not have any minutes taken** and there is dispute over how councillors voted”*.

5.2. On receipt of a complaint made by Mr Trotman on 12 March 2017, the article was amended online by Richard Gurner, Editor of Caerphilly Observer to read *“The secret meeting, which was not publicised beforehand, **did not have any detailed minutes** and there is dispute over how councillors voted”*. The online article is marked as last updated at 20:28., Sunday March 12th 2017.

5.3. The Minutes of the Senior Remuneration Committee held on Wednesday 5 September have been available on the Council’s website for four years. The Minutes did not contain any detail about the issues being discussed other than to record that the Committee had approved the proposals made in the chief executive’s report. The chief executive’s report was not attached to the Minutes. The Wales Audit Office report, dated March 2013 described the Minutes as *“inadequate” (para 40)* and concluded that *“we would have expected the Minutes to provide an accurate record of the meeting and that for a sensitive matter such as this, to have recorded whether or not the vote was unanimous (para 41)”*. The Wales Audit Office report also criticised the Council for acting unlawfully in not properly advertising the meeting beforehand, as is required by Sections 100A, 100B and 100E of the Local

Government Act 1972 (paras 25-28). However, the report concluded that *“there was no evidence that the lack of advertisement was anything other than an error”* (para 29). The Wales Audit Office report into Caerphilly County Borough Council is a publicly accessible document that can be downloaded from <https://www.wao.gov.uk>.

- 5.4. Caerphilly Observer provided a final decision letter to the Complainant within 10 days of the original complaint. Whilst Mr Gurner did not state in his decision letter that he would not be corresponding further with the Complainant, he made it clear that he had considered the complaint and had come to a final decision. He also invited the Complainant to refer the matter to IMPRESS if he was not satisfied with this decision.
- 5.5. Caerphilly Observer has complied with the requirements of the IMPRESS Regulatory Scheme (Paragraph 3.2), by promptly acknowledging the complaint within seven calendar days, taking prompt remedial action to address the complaint, issuing a final decision letter within 21 calendar days and informing the complainant of their right to refer the complaint to IMPRESS.
- 5.6. The relevant part of the Editors’ Code is Clause 1 Accuracy which provides that; (i) *The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by text;* and (ii) *A significant inaccuracy, misleading statement or distortion must be corrected promptly and with due prominence, and – where appropriate – an apology published.*
- 5.7. There is a disagreement between the parties as to whether or not the sentence, *“The secret meeting...did not have any minutes taken”* was a significant inaccuracy and if so whether the inclusion of the word *“detailed”*

and deletion of word “taken” which were made on the same day it was brought to the attention of Caerphilly Observer was a sufficient remedy.

5.8. The issues to be decided are:

- (a) Did the Caerphilly Observer take sufficient care to ensure that, in stating that “*The secret meeting...did not have any minutes taken*”, it was not publishing inaccurate, misleading or distorted information?
- (b) If the words were inaccurate, misleading or distorted information did they represent a significant inaccuracy, misleading statement or distortion?
- (c) If the article was found to represent a significant inaccuracy, misleading statement or distortion, when the article was amended by Caerphilly Observer on 12 March, was it amended in such a way as to be corrected promptly and with due prominence and was it appropriate for an apology to be published?

6. Conclusions

6.1. Did the Caerphilly Observer take sufficient care to ensure that, in stating that “The secret meeting...did not have minutes taken”, it was publishing inaccurate, misleading or distorted information?

6.2. The sentence beginning “*The secret meeting...did not have minutes taken*”, first published by the Caerphilly Observer on 5th January 2017, was not entirely accurate. First, it is clear that minutes were taken and that those minutes have been available on the website of Caerphilly County Borough Council for the past four years. Second, whilst the

meeting was not advertised and this was found to be unlawful by the Wales Audit Office in their October 2013 report (paragraphs 25-28), it was arguably inaccurate to refer to it as a “secret meeting”. The word “secret” can mean a matter deliberately concealed, or a matter that is simply unknown. There was no evidence that the lack of advertisement of the meeting was a result of deliberate concealment.

6.3. While Caerphilly Observer took general care to ensure the accuracy of the article, it should have taken greater care before publication, to cross-check specific details about the availability of the Minutes and of the circumstances under which the meeting was not lawfully advertised, both of which were explained in the publicly accessible Wales Audit Office report.

6.4. If the words were inaccurate, misleading or distorted did they represent a significant inaccuracy, misleading statement or distortion?

6.5. When read in the wider context of the whole article, the words beginning with the sentence “*The secret meeting...did not have minutes taken*” did not represent a significant inaccuracy. This is because the inaccuracy did not have a significant impact on the overall gist, meaning and accuracy of the story. The “lack of minutes” aspect was an insignificant element in what was a long recitation of the history of the saga leading up to the reporting of the latest development. It was true that minutes were taken and published. It was also true, however, that the Minutes were inadequate. The Wales Audit Office had found that the meeting had not been lawfully advertised and that the recording of the meeting was found to be inadequate with regards to the discussion that took place,

who was present at the meeting and whether the approval of members was unanimous. In referring to the presence or absence of minutes, the publisher was therefore justified in describing the position in highly critical terms.

- 6.6. Whether or not it was correct to describe the meeting as “secret” (using the deliberate concealment meaning of the word), it was not a significant inaccuracy. The secrecy can refer both to the fact that the meeting was not advertised and also to the failure to record relevant matters in the minutes. Both resulted in the public being deprived of access to important information. The information was of such importance that it led to the decision taken at the meeting being declared unlawful, and to criminal and to disciplinary proceedings against those involved.
- 6.7. The inaccuracies complained of were not significant. It follows therefore that there is no requirement for Caerphilly Observer to publish a correction or to issue an apology.
- 6.8. There has been no breach of Clause 1 (i) of the Editors’ Code because the Caerphilly Observer took care to make a prompt amendment to the article on the day the complaint was received to clarify that there were “*no detailed minutes*”.
- 6.9. There has been no breach of Clause 1 (ii) of the Editors’ Code because the inaccuracy was not significant when considered against the context of the article as a whole.
- 6.10. It follows that the complaint is dismissed and no further action is required.

Annex 1

The following documents were considered in determining this complaint.

1. Article that was published in the Caerphilly Observer Online at 0900 on Thursday 5th January “What is going on? The full story of the £2.5 council pay scandal” which is marked as last updated at 20.28, Sunday March 12th 2017.
2. E-mail exchanges (12 March, 14 March, 16 March, 22 March, 30 March, 12 April and 5 May) between Paul Trotman (Complainant) and Richard Gurner (Respondent) concerning an article that appeared in Caerphilly Observer on 5 January 2017.
3. Summary of the substance of the Complaint agreed by the Complainant with IMPRESS.
4. E-mail exchanges (5 May, 17 May and 31 May) between the Complainant and IMPRESS in which the substance of the complaint is set out and agreed.
5. Article that appeared in *Hold the Front Page* “Newspaper launched in reverse publishing venture marks 100 edition” in which the Editor of the Caerphilly Observer is quoted as referring to the article which is the subject of this complaint.
6. An e-mail letter sent to IMPRESS in response to the complaint by Richard Gurner, Editor of Caerphilly Observer, dated 12 June 2017.
7. Minutes of Senior Remuneration Committee of Caerphilly County Borough Council held on Wednesday 5th September 2012.

8. Minutes of Pensions/Compensation Committee of Caerphilly County Borough Council held on Thursday 16th March 2017.
9. Minutes of Investigating and Disciplinary Committee of Caerphilly County Borough Council held on Monday 6th March 2017.
10. Determination of complaint made against Councillor James Fussell by Public Services Ombudsman for Wales, dated 6 September 2016.
11. Wales Audit Office Report on Caerphilly County Borough Council, dated March 2013.
12. The Editors' Codebook – Guidance notes on Clause 1: Accuracy. Significant inaccuracy, corrections and due prominence, apologies and acting promptly.
13. IMPRESS guidance of Clause 1: Accuracy of the Editors' Code of Practice.
14. The IMPRESS Regulatory Scheme.