Paper No. 1121

CONFIDENTIAL

MINUTES of the COMPLAINTS COMMITTEE MEETING
Wednesday 28 June 2017 at 10.30 am
Gate House, 1 Farringdon Street, London EC4M 7LG

Present:
Sir Alan Moses, Chairman
Richard Best
David Jessel
Matthew Lohn
Jill May
Neil Watts
Elisabeth Ribbans
Peter Wright
Nina Wrightson

In attendance:
Charlotte Dewar, Director of Operations
Ben Gallop, Head of Complaints
Michelle Kuhler, PA and minute taker
Bianca Strohmann, Head of Complaints
Matt Tee, Chief Executive Officer

Also present: Members of the Executive:

Niall Duffy
Alistair Henwood
Vikki Julian
Madeline Palacz
Lauren Sloan
Catherine Thomas
Abigail Tuitt
Hugo Wallis

Observers:
Jonathan Grun, Editors' Code of Practice Committee

1. Apologies for Absence

Apologies were received from Janette Harkess, Lara Fielden and Gill Hudson.

2. Declarations of Interest

Peter Wright declared an interest in items 11, 12 and 14. He left the meeting for these items. David Jessel declared an interest in item 12. He left the meeting for this item.

3. Minutes of the Previous Meeting

The Committee approved the minutes of the meeting held on 31 May.

4. Update by the Chairman - oral

The Chairman expressed IPSO's gratitude to Ben Gallop who would be leaving IPSO at the beginning of August and he welcomed new Complaints Officer Catherine Thomas.

He noted that that Jill May would be leaving the Committee from September and thanked her for her service to IPSO.

5. Update by the Chief Executive - oral

The CEO had nothing further to add following the update by the Chairman.

6. Complaints Operations Report

The Committee noted the report and agreed that the trial of its question-and-answer format for discussion had been a success and that this should continue, for appropriate cases.

7. External Affairs Report

The Committee noted the report.

8. Matters Arising

There were no matters arising.

9. Complaint 01745-17 A man v the Jewish Chronicle

The Committee discussed the complaint and ruled that the complaint should be upheld. A copy of its ruling appears in **Appendix A.**

10. Complaint 01033-17 Ward v The Times

The Committee discussed the complaint, but did not make any ruling, as the Committee was not quorate for the discussion. A copy of its ruling, decided in correspondence after the meeting, appears in **Appendix B.**

11. Complaint 01032-17 Ward v The Mail on Sunday

The Committee discussed the complaint, but did not make any ruling, as the Committee was not quorate for the discussion. A copy of its ruling, decided in correspondence after the meeting, appears in **Appendix C.**

12. Complaint 00894-17 Wass v Mail Online

The Committee discussed the complaint, but did not make any ruling, as the Committee was not quorate for the discussion. A copy of its ruling, decided in correspondence after the meeting, appears in **Appendix D.**

13. Complaints not adjudicated at a Complaints Committee meeting

The Committee confirmed its formal approval of the papers listed in **Appendix E.**

14. Any other business

a. Complaint 06837-17 Gendy v The Sentinel

The Committee agreed to reopen this complaint following a request for review.

b. Complaint 11534-16 Miller v Daily Mail

The Committee discussed further correspondence received from the newspaper in relation to this complaint.

15. Date of Next Meeting

The date of the next meeting was confirmed as Wednesday 26 July 2017.

The meeting ended at 12.30pm

Michelle Kuhler
PA to CEO

APPENDIX A

Decision of the Complaints Committee

01745-17 A man v The Jewish Chronicle

Summary of complaint

1. A man complained on his own behalf, and on behalf of his parents, that The Jewish Chronicle breached Clause 4 (Intrusion into grief or shock) and Clause 9 (Reporting of crime) of the Editors' Code of Practice in an article published in 2017.

2. The article reported that a man had been convicted of fraud. It reported that the court had heard that the defendant's friends and family had compensated the victim. The article then identified the defendant's brother and parents, and reported biographical details in relation to each of them.

3. The complainant, who was the brother of the defendant identified in the article, said that neither he, nor his parents were relevant to the story of his brother's conviction, and that they should not have been identified. He said that while the court heard that family and friends of the defendant had compensated the victim, no further detail about who had helped was given to the court. The complainant said that he was not one of the individuals who had helped compensate the victim. He said that he could not confirm whether his mother and father had done so, but said that this was not relevant, as they had not been referred to in court. The complainant said that the newspaper had acted insensitively, intruding on his family's grief about the conviction.

4. The newspaper said that it had considered the identification of the complainants prior to publication, and consulted the Editors' Code of Practice. The newspaper said that there were two justifications for including their names in the article.

5. First, it said that the complainants were well known within the community it serves, that they were not private individuals, but well-known and prominent in public life. It said it had previously referred to them in older stories about the defendant, and that their names appeared together in these articles, which remained available on the internet. It provided seven examples of articles in which the complainants had been named. In one of these examples, the defendant was referred to in connection to his mother, and in another, he was referred to in connection to his father. The remaining five articles named only one of the complainants.

6. Second, it said that the defendant's family had been referred to in court when the judge had said that it was only as the result of the defendant being charged that family and friends had helped him compensate the victim. It said that the complainants were genuinely relevant to the story, where its position was that the judge had made remarks which were critical of the family's involvement in the case. It said that rather than leave readers to search its archive to remind themselves who the defendant's family were, it decided to present the full picture in the article, and identify the complainants as the defendant's brother, mother and father.

7. The complainant said that the reference to the defendant's family and friends helping to compensate the victim was a broad, non-specific reference in a much longer judgment. The complainant denied that the judge's reference to friends and family compensating the victim was a criticism of the family, and said that this remark by the judge had not played a central role in the judgment, as suggested by the newspaper. The complainant said that while he, his mother and father have occasionally been referred to in previous coverage by the newspaper, they were not well-known, or prominent in public life.

Relevant Code provisions

8. Clause 4 (Intrusion into grief or shock)

In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. These provisions should not restrict the right to report legal proceedings.

Clause 9 (Reporting of Crime)*

i) Relatives or friends of persons convicted or accused of crime should not generally be identified without their consent, unless they are genuinely relevant to the story.

The Public Interest

There may be exceptions to the clauses marked * where they can be demonstrated to be in the public interest.

The public interest includes, but is not confined to:

- Detecting or exposing crime, or the threat of crime, or serious impropriety.
- Protecting public health or safety.

- Protecting the public from being misled by an action or statement of an individual or organisation.
- Disclosing a person or organisation's failure or likely failure to comply with any obligation to which they are subject.
- Disclosing a miscarriage of justice.
- Raising or contributing to a matter of public debate, including serious cases of impropriety, unethical conduct or incompetence concerning the public.
- Disclosing concealment, or likely concealment, of any of the above.
- There is a public interest in freedom of expression itself.
- The regulator will consider the extent to which material is already in the public domain or will or will become so.
- Editors invoking the public interest will need to demonstrate that they reasonably believed publication - or journalistic activity taken with a view to publication – would both serve, and be proportionate to, the public interest and explain how they reached that decision at the time.
- An exceptional public interest would need to be demonstrated to over-ride the normally paramount interests of children under 16.

Findings of the Committee

8. The defendant's family and friends had been referred to by the judge in the court proceedings as having helped compensate his victim. However, it did not appear that during the proceedings, anybody had referred either to any individual friend or family member, or specified their relationship with the defendant. The Committee took the view that the limited nature of the reference to the defendant's family, which could apply to a broad class of individuals, did not provide a sufficient basis for finding that the complainants were genuinely relevant to the story, to justify identification under the terms of Clause 9.

9. The Committee noted the newspaper's argument that the complainants were prominent individuals in the community it served, and that it was entitled to identify them to provide its readers with a full picture of the case. While the Committee recognised that there may be circumstances where an individual has a relationship with a person convicted or accused of crime which is so well-known and established in the public's mind that the general protections established by Clause 9 would have no useful purpose, this was not such a case. On the basis of the two articles the newspaper provided from its archive in which the defendant had been referred to in connection with one of the complainants, the Committee was satisfied the complainants' relationship with the defendant was insufficiently prominent to fall within this category of cases.

10. The newspaper was unable to demonstrate that the complainants were genuinely relevant to the story, or that that there was a sufficient public interest to justify their identification regardless. The reference to the

complainants in the article associated them with a criminal act for which they were not responsible, without an adequate justification. The complaint was therefore upheld as a breach of Clause 9.

11. The conviction of the complainants' family member, while understandably distressing, was not a case of personal grief or shock, such as to engage the terms of Clause 4.

Conclusions

12. The complaint was upheld.

Remedial Action required

13. Having upheld the complaint, the Committee considered what remedial action should be required.

15. In circumstances where the newspaper had breached Clause 9, the publication of the Committee's adjudication was appropriate.

16. The Committee considered the placement. The article had appeared on page 11. The Committee therefore required that its adjudication published on this page, or further forward in the newspaper. The headline to the adjudication should make clear that IPSO has upheld the complaint, give the title of the newspaper and refer to the complaint's subject matter. The headline must be agreed with IPSO in advance.

17. It should also be published on the newspaper's website, with a link to the full adjudication (including the headline) appearing on the homepage for 24 hours; it should then be archived in the usual way. The terms of the adjudication for publication are as follows:

A man complained on his own behalf, and on behalf of his parents, that The Jewish Chronicle breached Clause 9 (Reporting of crime) in an article published in 2017.

The article under complaint reported that a man had been convicted of a crime. It reported that the court had heard that the defendant's friends and family had compensated the victim. The article then identified the complainants as the defendant's brother and parents.

Clause 9 of the Editors' Code of Practice says that "Relatives or friends of persons convicted or accused of crime should not generally be identified

without their consent, unless they are genuinely relevant to the story." The complaint was upheld, and IPSO required The Jewish Chronicle to publish this adjudication.

The complainant said that neither he, nor his parents were relevant to the story of his brother's conviction, and that they should not have been identified in the article. He said that while the court heard that family and friends of the defendant had compensated the victim, no further detail about who had helped was given to the court.

The Jewish Chronicle said that there were two justifications for including the complainant's names in the article. First, it said that the complainants were well known within the community it serves, that they were not private individuals, but well-known and prominent in public life. Second, it said that the defendant's family had been referred to in court when the judge had said that it was only as the result of the defendant being charged that family and friends had helped him compensate the victim.

The defendant's family and friends had been referred to by the judge in the court proceedings as having helped compensate his victim. However, it did not appear that during the proceedings, anybody had referred either to any individual friend or family member, or specified their relationship with the defendant. IPSO's Complaints Committee took the view that the limited nature of the reference to the defendant's family, which could apply to a broad class of individuals, did not provide a sufficient basis for finding that the complainants were genuinely relevant to the story, to justify identification under the terms of Clause 9.

The Committee noted the newspaper's argument that the complainants were prominent individuals in the community it served, but said that in this case, the prominence of the complainants' relationship to the defendant was insufficient to justify identifying them, despite the terms of Clause 9.

The Jewish Chronicle was unable to demonstrate that the complainants were genuinely relevant to the story, or that that there was a sufficient public interest to justify their identification regardless. The reference to the complainants in the article associated them with a criminal act, for which they were not responsible, without an adequate justification. The complaint was therefore upheld as a breach of Clause 9.

APPENDIX B

This decision was made in correspondence, following a discussion at the meeting

Decision of the Complaints Committee

01033-17 Ward v The Times

Summary of Complaint

1. Bob Ward complained to the Independent Press Standards Organisation that The Times breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "Politics and science are a toxic combination", published on 6 February 2017.

2. The article was an opinion piece, which expressed the columnist's views on claims made by Dr John Bates, a climate scientist formerly employed at the US National Oceanic and Atmospheric Administration (NOAA), in an online blog.

3. In the blog, Dr Bates detailed at length his concerns surrounding the archiving and documentation of two sets of temperature data, which had underpinned a climate study published in the journal *Science* on 4 June 2015. Dr Bates had claimed that the authors of the study had failed to follow internal NOAA procedures in relation to the archiving of the data, which affected other researchers' ability to scrutinise the work. The study, widely referred to as the 'Pausebuster' paper, suggested that there had been no "pause" in global warming in the 2000s as other research had appeared to show. In addition to criticising the archiving process, the blog also criticised the paper itself and the process by which it had been prepared.

4. The column included extensive direct quotations from Dr Bates's blog, presenting claims that the principal author of the paper had his "thumb on the scale pushing for, and often insisting on, decisions that maximize warming and minimise documentation", which constituted in Dr Bates' view a "flagrant manipulation of scientific integrity guidelines and scientific publication standards". This including using "flawed" land-surface and sea-surface data sets. Dr Bates had also alleged a "rush" to "deliberately time" the publication of the paper to influence the Paris Climate Conference in 2014.

5. The columnist also provided his own commentary on the nature and significance of Dr Bates's allegations. He described the claims as an allegation that "scientists themselves have been indulging in alternative facts, fake news and policy-based evidence", and said that "alternative facts have no place in climate-change research". He criticised those who had been "quick to dismiss"

Dr Bates' claims on the basis that other data sets have "come to similar conclusions": "If the scientific establishment reacts to allegations of lack of transparency, behind-closed-door adjustments and premature release so as to influence politicians, by saying it does not matter because it gets the 'right' result, they will find it harder to convince Mr Trump that he is wrong on things such as vaccines." He alleged that this demonstrates that science journalists "ignore" evidence of scientific misconduct in relation to climate change because they "approve of the cause". He noted that the paper had been "widely hailed in the media as disproving the politically inconvenient 18-year pause in global warming, whose existence had been conceded by the Intergovernmental Panel on Climate Change (IPCC) two years earlier".

6. It said that Dr Bates' concerns were "more than just a routine scientific scandal" and drew comparisons between the claims made by Dr Bates and previous controversies, including "Climategate" in 2009, the "anti-vaccine campaign", and what the columnist described as an incident in which the chairman of the IPCC "had to retract his 'voodoo science' dismissal of a valid finding which contradicted his own research institute about Himalayan glaciers", which the columnist said resulted in a "highly critical" report into the IPCC by several of the world's top science academies.

7. The columnist reported that, given the concerns raised by Dr Bates, "*Science* magazine is considering retracting the paper".

8. The article appeared in substantially the same form online.

9. The complainant denied the substance of Dr Bates' claims and complained further that the significance of these concerns had been misrepresented, and that the newspaper had taken no steps to establish the veracity of the claims, in breach of its obligations under Clause 1.

10. The complainant said that the two data sets used in the study, had not been "flawed"; he noted that the paper's findings had been verified by independent referees for *Science*. It was therefore inaccurate to report that the authors of the paper had been guilty of a "lack of transparency". He said that land surface temperature data used in the study had recorded findings which were largely similar to the previous version of the dataset, and was therefore responsible for relatively little of the increase in warming that the study had showed. Further, the sea surface dataset had not been flawed in the manner suggested, and in any case this adjustment contributed only a small proportion of the change from an earlier version of the dataset. The complainant said that the largest change had in fact resulted from a separate adjustment.

11. The complainant did not accept the columnist's characterisation of Dr Bates' allegations, noting that Dr Bates had subsequently issued a statement clarifying that there was "no data tampering, no data changing, nothing malicious".

12. The complainant said that in those circumstances, it was inaccurate for the article to claim that the blog contained allegations of scientific misconduct, and misleading to liken the seriousness of his claims to those of the other controversies mentioned. No similarities existed between those events, and Dr Bates' claims, and further, the article had provided no evidence to support the columnist's claim that science journalists have "ignored" scientific misconduct by climate scientists.

13. The complainant denied that the paper had been "rushed"; it had been submitted to the journal almost 12 months before the conference; accepted for publication on 21 May 2015; and published online on 4 June 2015. The journal determined the timescale for publication, and the editor of the journal at the time had said that "the paper was not rushed in any way". The Editor in Chief of *Science* had said that "we will consider our options, which could include retracting that paper", but had subsequently stated that "it appears these accusations are not new, but have been investigated inside NOAA and found to be without substantial merit".

14. The complainant raised concerns in relation to the article's presentation of the paper's impact on the Paris Climate Conference in 2014. Whilst he accepted that Dr Bates had claimed that the authors of the paper had "time[d] the publication of the paper to influence national and international deliberations on climate policy", he said that there was no evidence that world leaders had been aware of the existence of the paper at the time of the Paris Conference. Given this, it was inaccurate to report that the paper had been "deliberately timed" to influence the Conference.

15. The complainant denied that the so-called "pause" in global warming had been "conceded" by the IPCC in 2013; their report had summarised earlier academic studies, which had already suggested a possible slowdown in the rate of rise in global mean surface temperature after 1998. He also said it was inaccurate and misleading to liken the seriousness of the allegations contained in the blog to that of the 2009 "Climegate" affair, and said that science academies had not published a "highly critical" report on its chairman's dismissal of findings relating to his Himalayan glacier research- it had merely made a number of recommendations for improving IPCC's processes.

16. The newspaper did not accept a breach of the Code. It said the article was clearly identifiable as an opinion piece; the columnist had reported on Dr Bates' claims accurately, and had been further entitled to express his opinion on them. It noted that Dr Bates had checked the accuracy of the article before publication.

17. The newspaper said the columnist's criticism of scientists for "indulging in alternative facts and fake news" was a reasonable interpretation of Dr Bates' concerns. It said that in the context of an opinion piece, such an interpretation amounted to fair comment, given that the allegations contained in the blog

had demonstrated that the data underpinning the paper had been misleading and deliberately skewed: the very definition of fake news and alternative facts.

18. It said that Dr Bates' chief concerns about the reliability and archiving of the data had been reported in other publications and in his blog. In relation to the land surface dataset, Dr Bates had made the specific criticism that, given the experimental processing which the data went through, the resulting dataset was never archived, and its results were "virtually impossible" to replicate. Given these specific allegations, the newspaper said that it was not inaccurate to report that Dr Bates had accused the authors of the paper of a "lack of transparency".

19. The newspaper said that it had reported Dr Bates' specific claims that there was a "rush" to "deliberately time" the publication of the paper to influence national and international deliberations on climate policy. It noted that the complainant did not dispute that the editor-in – chief of *Science* had said that one "option" could be retracting the paper.

20. The newspaper said that the columnist was entitled to comment on Dr Bates' claims, including their significance and their relevance to previous scandals. The newspaper also provided a number of examples of coverage in other publications, which it said supported the columnist's claim that science journalists have previously ignored climate "scandals".

21. It said that the IPCC had "conceded" the pause in global warming in 2013, given that the "pause" had been mentioned in its Fifth Assessment Report on Climate Change in 2013, and the critique by science academies of the IPCC chairman, had been widely reported.

Relevant Code Provisions

Clause 1 (Accuracy)

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

ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and — where appropriate — an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

iii) A fair opportunity to reply to significant inaccuracies should be given, when reasonably called for.

iv) The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.

v) A publication must report fairly and accurately the outcome of an action for defamation to which it has been a party, unless an agreed settlement states otherwise, or an agreed statement is published.

Findings of the Committee

22. The newspaper was entitled to report on the views of Dr Bates, a leading former climate scientist at the NOAA, about the Pausebuster paper and the circumstances surrounding its publication. While acknowledging the newspaper's position that Dr Bates had reviewed the article before publication, the primary question for the Committee was whether Dr Bates' concerns had been presented in a significantly inaccurate or misleading way.

23. The columnist's characterisation of the substance of Dr Bates' claims was very strong: he had asserted that Dr Bates has alleged that scientists were indulging in "alternative facts, fake news and policy-based evidence". The Committee noted that this appeared on its face to conflict with Dr Bates' subsequent public statement that there had been "no data tampering, no data changing, nothing malicious". However, Dr Bates had claimed in the blog that a "thumb on the scale" pushed for decisions that would create a desired outcome, and described the process as a "flagrant manipulation of scientific integrity guidelines". "Fake news" and "alternative facts" are currently ill-defined terms, and the Committee concluded on balance that the nature of these allegations was such that the columnist was entitled to characterise them in this way. There was no breach of the Code on that point.

24. Dr Bates had made clear in his blog that he considered that the paper had been rushed, and deliberately timed to influence the Paris Climate Conference; he had said that the NOAA had breached its own rules on scientific integrity; he had said that the data had been faulty, because he believed that both datasets had been flawed. These concerns were clearly distinguished as Dr Bates' claims based on his professional experience, which was explained, and had been accurately reported in the column, as claims. The columnist also acknowledged, albeit critically, that defenders of the paper had responded that other data sets had come to similar conclusions. While the Committee noted the grounds for the complainant's disagreement with the columnist (and with Dr Bates) in relation to these matters, the columnist had not failed to take care over the accuracy of these claims, and it did not establish any significant inaccuracies in the column's discussion of these issues.

25. The columnist had been further entitled to express his opinion on the significance of these claims; to draw comparisons between previous "scandals" within the scientific community; and to comment on the wider implications of Dr Bates' concerns in that community, as well as on policy decisions on climate change. These were statements of the columnist's opinion. His views, however controversial, did not raise a breach of Clause 1. There was no breach of the Code in relation to his discussion of these issues.

Conclusion

37. The complaint was not upheld.

APPENDIX C

This decision was made in correspondence, following a discussion at the meeting

Decision of the Complaints Committee

01032-17 Ward v The Mail on Sunday

Summary of Complaint

26. Bob Ward complained to the Independent Press Standards Organisation that The Mail on Sunday breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "EXPOSED How world leaders were duped over global warming", published on 5 February 2017.The article, which also published online under the headline "Exposed: How world leaders were duped into investing billions over manipulated global warming data".

27. The article reported on claims made by Dr John Bates, a climate scientist formerly employed at the US National Oceanic and Atmospheric Administration (NOAA), in an online blog and in an interview to the newspaper. In the blog, Dr Bates detailed at length his concerns surrounding the archiving and documentation of two sets of temperature data, which had formed the basis of a climate study published in the journal *Science* on 4 June 2015. Dr Bates had claimed that the authors of the study had failed to follow internal NOAA procedures in relation to the archiving of the data, which affected other researchers' ability to scrutinise the work. The study, widely referred to as the "Pausebuster" paper, suggested that there had been no "pause" in global warming in the 2000s as other research had appeared to show.

28. In addition to criticising the archiving process, the blog also criticised the paper itself, suggesting that its authors had "push[ed] choices to emphasize warming" and that the principal author had his "thumb on the scale - in the documentation, scientific choices and release of datasets - in an attempt to discredit the notion of a global warming hiatus", demonstrating "flagrant manipulation of scientific integrity guidelines". Dr Bates suggested that the publication of the paper had been "rushed" with the aim of influencing the 2014 UN climate conference in Paris. Dr Bates said that he had pressed the co-authors to justify their decision not to archive the data through his devised method, but that they had not defended their decision.

29. The article said that the newspaper had been shown "irrefutable evidence" that the paper had been based upon "misleading, unverified data", and said that NOAA had "breached its own rules on scientific integrity" when it had published the "sensational but flawed report", because the failure to archive

the data had meant that "the Pausebuster paper can never be replicated or verified by other scientists".

30. The article explained that the Pausebuster paper had been based on two new datasets, one relating to measurements of land surface temperatures, and the other, ocean surface temperatures.

31. The article reported on the concerns which Dr Bates had detailed at length in his blog, about the archiving of these two sets of data. It said that the data "was never subjected to NOAA's rigorous internal evaluation process – which Dr Bates devised". It said that both of these data sets had been "flawed" but that Dr Bates' "vehement objections" to the publication of the "faulty data", which he had made known to the co-authors of the paper, had been "overridden by his NOAA superiors". In an interview with the newspaper, Dr Bates had "accused the lead author of the paper of 'insisting on decisions and scientific choices that maximised warming and minimised documentation… in an effort to discredit the notion of a global warming pause, rushed so that he could time publication to influence national and international deliberations on climate policy'."

32. The article explained that the data set which had been used to measure sea surface temperatures, known as ERSST.v4, had replaced an earlier version of the data set, ERSST.v3. It said that ERSST.v4 had "tripled" the apparent warming trend over the sea between 2000 and 2014, compared with ERSST.v3, leading to the apparent disappearance of the "pause" in climate change over the period. Dr Bates had told the newspaper that this increase in temperature had been achieved by "dubious means" because the data's "key error was an upwards 'adjustment' of readings from fixed and floating buoys, which are generally reliable, to bring them into line with readings from a much more doubtful source – water taken in by ships". Dr Bates said that the authors of the paper "had good data from buoys" but said that "they threw it out and 'corrected' it by using the bad data from ships… you never change good data to agree with bad, but that's what they did – so as to make it look as if the sea was warmer." Dr Bates also said that the ERSSTv4 had also ignored "reliable" data from satellites, which measure the temperature of the lower atmosphere.

33. The article stated that the NOAA had subsequently decided that ERSST.v4 will have to be "replaced and substantially revised just 18 months after it was issued, because it used unreliable methods which overstated the speed of warming". It claimed that the new version "will show both lower temperatures and a slower rate in the recent warming trend", when compared to the dataset used in the Pausebuster paper, and "will reverse the flaws in version 4".

34. The article was illustrated with a graph, entitled "The misleading 'Pausebuster' chart". It plotted a red line which represented the data from ERSST.v4, described as "the 'adjusted' and unreliable sea data cited in the flawed 'Pausebuster' paper", and a blue line, described as "the UK Met Office's

independently texted and verified 'HadCRUT4' record", which it said "showed lower monthly readings and a shallower recent warming trend". A note at the base of the graph stated that "0 represents 14°C".

35. The article reported Dr Bates' criticism of the land surface data, claiming that it had been "processed through a … method which had significant errors, meaning that the study would have used data with experimental processing, which had known flaws"; he had said that dataset was "questionable" because it "was afflicted by devastating bugs in its software that rendered its findings 'unstable'".

36. The article said that the "final bombshell" came when Dr Bates learned that the computer used to process the land surface data had suffered a "complete failure"; it said that "because of the NOAA's failure to archive data used in the paper, its results can never be verified" or replicated by other scientists.

37. The article claimed that the "failure to archive and make available fully documented data not only violated NOAA rules, but also those set down by *Science*".

38. The article reported Dr Bates' concerns regarding the influence which the paper had made on these policy decisions, and said that it had been shown "astonishing evidence" that NOAA had "rushed" to make the "maximum possible impact" on world leaders at the 2014 UN climate conference in Paris. It further claimed that delegations from America, Britain and the EU had been "strongly influenced" by the "flawed" and "manipulated" data as they negotiated the agreement, which had "convinced the Paris summit to invest billions in climate change"; this was the basis for the headline's claim that "world leaders were duped over global warming".

39. The article explained that after the paper was published, the US House of Representatives Science Committee launched an inquiry into the paper, and said that the chairman of the Committee had thanked Dr Bates for "for courageously stepping forward to tell the truth about NOAA's senior officials playing fast and loose with the data in order to meet a politically predetermined conclusion".

40. The article suggested that the incident had "disturbing echoes" of the "Climategate" affair, another instance in which the newspaper had revealed what it described as "dodgy climate data" based on leaked internal emails sent by climate scientists. The article characterised the new allegations as "Climategate 2."

41. The complainant said that article had made a number of extraordinary claims, which were misleading and inaccurate, including a "fake graph". The significance of Dr Bates' concerns about the archiving procedures had been misrepresented in the article, and the newspaper had taken no steps to

establish the veracity of Dr Bates' claims. World leaders had not been duped", and there was no "irrefutable evidence" that the paper was based on "misleading, unverified data", as the article had claimed. The findings of the Pausebuster paper had been verified by independent referees for *Science* in accordance with its standard peer review procedure, who had been able to access the data in order to carry out an independent evaluation of the paper, which had provided independent confirmation of the findings. The relevant data had been pushed on the NOAA's File Transfer Protocol (FTP) site in early June 2015, when the paper was published. The complainant said that in those circumstances, it was inaccurate to report that the publication of the paper had violated the rules of *Science*.

42. The complainant disputed the accuracy of Dr Bates' claims, particularly his description of the two datasets as "dodgy" or "faulty"; he did not accept that the paper had "exaggerated global warming", or that it was a "sensational but flawed report". The complainant also denied that Dr Bates had expressed "vehement objections" to the publication of the data or that the paper had been rushed. He noted that after the publication of the article, Dr Bates had issued a statement clarifying that there was "no data tampering, no dating changing, nothing malicious" in the preparation of the paper.

43. The complainant said that there was no evidence that ERSST.v4 used "unreliable" methods which "exaggerated" the speed of warming, given that the paper had been independently examined and verified. While the complainant accepted that the authors of the paper had noted that buoy data have been proven to be more accurate and reliable than ship data, he said that this had been explicitly acknowledged in the paper. In any case, this adjustment made only a small contribution to the differences between ERSST.v4, and ERSST.v3; the largest change had resulted from a different adjustment. He further said that satellite measurements of the lower atmosphere are not "considered reliable" because they do not provide information about sea surface temperatures. The sea surface temperatures were not "measured using methods known to be "dubious" of "unreliable", given that ERSST.v4's methodology had been fully documented in an earlier paper, which described a series of 11 procedures that were applied to correct for potential errors in the data. The complainant noted that an independent reviewer of the paper had said that the land data set used in the study was largely similar to a previous version, and was responsible for relatively little of the increase in warming it had showed. In those circumstances, the complainant said that, while he could not confirm whether there were "bugs" in the software of the land temperature dataset, any bugs which may have been there, would not have been "devastating".

44. While the complainant accepted that ERSST.v5 would soon be released, he denied that t would show lower temperatures and a slower rate in the warming trend, nor would it "reverse flaws in version 4": ERRSTv5 had been compiled, largely due to the analysis of new data not available for ERSSTv4. He said that

he had seen the draft paper methodology of the new dataset, and the paper did not make it clear how its results would compare to the previous dataset.

45. The complainant said that the graph which illustrated the article was fake. First, the red line did not represent the data from the paper, because it did not incorporate the land surface data. Second, it misrepresented the differences between the two datasets: the two lines which allegedly showed the difference between the two datasets for sea surface temperature measurements were misleading, because the data sets used different baselines. It was wrong to say that "0 represents 14°C"; for the NOAA data, the baseline was 13.9.

46. The complainant raised a number of concerns in relation to the article's presentation of the paper's impact on the Paris Climate Conference in 2014. In particular, he said that there was no evidence that world leaders had been aware of the existence of the paper at the time of the Paris Conference: they had not referenced the paper in their speeches on the opening day of the summit, and there was no reference to the paper or the "pause" in any version of the Agreement. It was wrong to say that the US, UK and EU delegations had been "strongly influenced" by the paper.

47. The complainant denied that the paper had been "rushed"; it had been submitted to the journal almost a year before the conference; accepted for publication in May 2015; and published online on 4 June 2015. The journal determined the timescale for publication, and its editor had said that "the paper was not rushed in any way".

48. The complainant raised a number of other concerns about the newspaper's claims about the significance and context of the allegations. Calls for urgent action on climate change did not "look threadbare" as a result of the claims; the case for action on climate change is based on the evidence documented in many thousands of rigorous academic studies, not on a single paper.

49. The complainant denied that the so-called 'pause' in global warming had been "revealed" by UN scientists in 2013. He said that the 2013 report to which this referred had summarised earlier academic studies, which had already suggested a possible slowdown in the rate of rise in global mean surface temperature after 1998. He also said it was inaccurate and misleading to liken the seriousness of the allegations contained in the blog to that of the 2009 "Climategate" affair, and in any case disputed the representation of that controversy. He further said that the statements attributed to the head of the US House of Representatives Science Committee, were inaccurate and misleading, given Dr Bates' subsequent statement that there was "no data tampering, no dating changing, nothing malicious" in the preparation of the paper.

50. The newspaper defended the accuracy of its coverage, with the single exception of the issue of the graphic (see below). It said it was entitled to highlight the concerns of an award-winning former senior scientist at NOAA, who had

reported that NOAA had broken its own rules on the use of scientific data in a crucial paper, and to comment on the implications of these claims.

51. The newspaper said that Dr Bates had checked the accuracy of the article before publication. It denied that Dr Bates' statement saying that he did not allege data tampering, data changing or "anything malicious" was effectively a withdrawal of his claims: it was an explanation that figures, once entered, had not been altered. It was not inaccurate for the article to report that Dr Bates had shown the newspaper "irrefutable evidence" that the paper had been based on "misleading" and "unverified" data. The independent reviewers of the paper were free to express their views on the paper, but others had disagreed with them.

52. It said that Dr Bates had presented evidence that the land dataset was experimental, subject to bugs and unverified, while the ERSSTv4 sea dataset, which inflated the speed of warming, was about to be replaced. The newspaper maintained that the land surface data set had not been properly archived.

53. In response to a request by IPSO to clarify the "irrefutable evidence that the paper was based on misleading, 'unverified' data" it said that Dr Bates had shown it examples of both fully archived climate data using the programme that he had devised, and the less detailed FTP site upload that was issued along with the paper. It said that Dr Bates had made it clear to the newspaper, and in his original blog post, that putting raw data on a website is not the same thing as full data archiving. The newspaper further noted that the author of the paper had admitted that the data had not been archived when the paper was published and the final 'operational' edition of the land data would be 'different' from that used in the paper. It said that in circumstances, the evidence that the paper's data was unverified and misleading was irrefutable, contrary to the complainant's position.

54. It said that the journalist had seen the draft paper which described the method used to produce ERSST.v5. It said that this showed that it "reverses the errors" made by version 4 in its method of correcting sea temperatures, and therefore showed both a lower rate of warming since 2000 and lower absolute temperature values. It provided a quote from the paper which said, "the short-term (2000-2015) trend is slightly lower in ERSSTv5 than in ERSSTv4". The newspaper maintained that satellite measurements of the lower atmosphere are relevant to sea surface temperatures.

55. It also maintained that the land dataset was "afflicted by devastating bugs". It said that the reviewers for *Science* had no access to the land dataset and the software and algorithms, because it was not archived. It said that if independent reviewers had replicated the results, those results would not have been achieved by the same methods as the ones used in the paper, because they were not available.

56. The newspaper did accept that the graph's caption was inaccurate but said that it was corrected swiftly, on the day of publication, making clear the inadvertent use of different baselines. It noted, however, that there are substantial differences between the Met Office data and the NOAA warming rate. It amended the graph's caption to:

"The red line shows the current NOAA world temperature graph- elevated in recent years due to the 'adjusted' sea data. The blue line is the Met Office's independent HadCRUT4 record. Although they are offset in temperature by 0.12°C due to different analysis techniques, they reveal that NOAA has been adjusted and so shows a steeper recent warming trend".

57. The newspaper said that it had subsequently taken the decision to remove the graph from the online article, and said that it had also included an acknowledgment of the error in a follow up article, published 12 February: *"It is important to acknowledge the MoS did make one error: the caption on a graph, showing the difference between NOAA's sea data records and the UK Met Office's, did not make clear that they used different baselines. We corrected this immediately on our website."*

58. The newspaper did not accept that the article was misleading in its reporting of the circumstances surrounding the publication of the paper; the "rush" had been on the part of NOAA, not *Science*. The authors of the paper knew that they had to submit it well in advance to ensure it was published in time to make an impact on the conference. It noted that *Science's* editorial policy for contributions states that data should be "archived in the NOAA climate repository or other public databases", and interpreted this to mean fully archived in accordance with the programme which Dr Bates had devised. It said that it was therefore not inaccurate to report that the paper had also breached the rules set by *Science*.

59. When the paper was released, it was accompanied by a high-profile NOAA press release and worldwide media coverage. The newspaper noted that in an October 2015 submission to all delegates attending Paris shortly before the conference, the Global Science Observing System cited both the Karl paper and the new experimental dataset prominently. In those circumstances, and given that the point of any report is to influence opinion, there were clear efforts to ensure that world leaders would be influenced by the paper. It was irrelevant that the Paris Agreement made no reference to the paper. It further noted that it had been entitled to report the concerns of the chairman of the US House of Representative Science Committee, which he had been free to express.

60. It said that the "pause" in global warming was comprehensively discussed in the 2013 UN IPCC report, and it made no difference to the article whether others may have reported on the "pause", previously. The newspaper said that Climategate was relevant because it involved allegations that scientists used a

"trick" to hide the decline in a climate proxy dataset and colluded to prevent access to data by sceptics.

61. The complainant did not accept the newspaper's position that Dr Bates' concerns about the archiving of the data constituted "irrefutable evidence" that the paper was based on "misleading" and "unverified" data. He reiterated that the paper's findings had been independently validated, and had agreed with separate global temperature records created by other groups. The complainant noted that the newspaper had amended the first graph's caption but said that the graph had still inaccurately reported that both datasets were plotted relative to 14.0°C. He said that the newspaper had relied upon a sentence in the draft methodology of ERSSTv5, which, when put in its proper context, supported the conclusions of the Pausebuster paper.

Relevant Code Provisions

62. Clause 1 (Accuracy)

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

ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and - where appropriate - an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

iv) The Press, while free to editorialise and campaign, must distinguish clearly between comment conjecture and fact.

Findings of the Committee

63. The newspaper was entitled to report on the views of Dr Bates, a leading former climate scientist at the NOAA, about the Pausebuster paper and the circumstances surrounding its publication. While acknowledging the newspaper's position that Dr Bates had reviewed the article before publication, the primary question for the Committee was whether Dr Bates' concerns had been presented in a significantly inaccurate or misleading way.

64. The article had characterised Dr Bates' testimony as providing "irrefutable evidence" that the paper had been based on "misleading, 'unverified' data", leading – as the headline claimed – to world leaders being "duped" over global warming, and "convinced" to invest billions in climate change. These claims went much further than the concerns which Dr Bates had detailed in his blog or in the interview; they did not represent criticisms of the data collection process, but rather, were assertions of fact that the data had been demonstrated to be wrong, had impacted significantly on the decision making of world leaders, with an additional implication of a wilful attempt to deceive.

Dr Bates had challenged the findings, as he was entitled to do; however he had not proven them to be false, nor had he suggested that the authors of the study had acted dishonestly.

65. The article claimed that because of the NOAA's "failure to 'archive'" the data, "its results can never be verified". Central to Dr Bates' detailed criticisms was the decision of the paper's authors to upload the data on NOAA's FTP site, instead of archiving it through the method which he had devised, while in his role at NOAA. While it appeared to be accepted that the paper had not undergone the full archiving process, the Committee did not consider that the article had made sufficiently clear that the failure to archive, had been a failure to archive the data through Dr Bates' devised method, only, and that the data had been made publicly available, albeit not in the format Dr Bates recommended. The newspaper did not dispute that the results had been independently validated as part of the *Science* peer review process, and after publication of the paper. In characterising Dr Bates' claims in this way, where he had expressed the precise nature of his concerns clearly in this blog and during the interview, the newspaper had failed to take care over the accuracy of the article, in breach of Clause 1 (i) and had then failed to correct these significantly misleading statements, in breach of Clause 1 (ii).

66. The graph which accompanied the article had provided a visual illustration of the newspaper's contention regarding the difference between the "flawed" NOAA data and other, "verified", data. The newspaper's failure to plot the lines correctly represented a breach of Clause 1 (i); the result was significantly misleading and required correction under Clause 1 (ii). While the Committee noted that the newspaper had amended the graph's caption to make clear that the two data sets were plotted using different baselines, and had referenced this inaccuracy in a later article, this did not constitute a correction under the terms of Clause 1 (ii). It did not clearly identify the inaccuracy or set out the correct position, and was not sufficiently prominent as a single sentence in a longer article, which was not distinguished as a correction. There was a further breach of Clause 1 on this point.

67. Dr Bates had made clear in his blog and during the interview with the newspaper that he considered that the paper had been rushed, and deliberately timed to influence the Paris Climate Conference in order to make the maximum possible impact on world leaders. He had said that the NOAA had breached its own rules on scientific integrity, the paper had been sensational but flawed and that it had exaggerated global warming. He criticised the land and sea data sets, setting out the specific grounds for the concerns, and said that objections he had raised prior to the paper's publication had been ignored.

68. These claims had been attributed to Dr Bates, based on his experience as a senior leader at the NOAA, and had been attributed in the article as such. The complainant disputed them. However, the newspaper was entitled to publish

Dr Bates' opinion regarding these issues, and it was not for the Committee to reconcile these conflicting positions. The Committee considered that the newspaper had reported Dr Bates' testimony accurately in these respects; there had been no breach of the Code on these points.

69. It was a matter of scientific debate as to whether data from satellites of the lower atmosphere were relevant in the measurement of sea surface temperatures; whether sea surface temperature data taken from ships was reliable; or whether the differences between ERSSTv5 and ERSSTv4, highlighted in the draft methodology of ERSSTv5, would undermine the results of the Pausebuster paper. It was not for the Committee to reconcile these conflicting positions.

70. The newspaper was further entitled to comment on the context and potential implications of Dr Bates' allegations: to draw comparisons with previous "scandals" within the scientific community; to comment on the wider implications for other scientists and climate policy; and to report on political reaction to the claims. There had been no breach of the Code on these points.

Conclusions

46. The complaint was upheld.

Remedial Action Required

47. Having upheld the complaint under Clause 1, the Committee considered what remedial action should be required.

48. The breach of the Code established by the Committee was sufficiently serious that the appropriate remedial action was the publication of an adverse adjudication, as opposed to a correction.

49. As the inaccurate information had appeared on page 10, 11 and 12 of the print edition, the Committee required the newspaper to publish the adjudication on page 10 or further forward.

50. The wording of the headline to the adjudication should be agreed with IPSO in advance, or in the absence of agreement, as determined by the Complaints Committee. It should refer to IPSO, include the title of the newspaper, make clear that the complaint was upheld, and refer to the subject matter. The placement on the page, and the prominence, including font size, of the adjudication must also be agreed with IPSO in advance.

51. The adjudication should also be published on the newspaper's website, with a link to the full adjudication appearing on the top half of the homepage for 24 hours; it should then be archived in the usual way.

52. The terms of the adjudication to be published are as follows:

Following an article published on 5 February 2017 in the Mail on Sunday, headlined "EXPOSED How world leaders were duped over global warming", Bob Ward complained to the Independent Press Standards Organisation that the newspaper had breached Clause 1 (Accuracy) of the Editors' Code of Practice. IPSO upheld the complaint and has required the Mail on Sunday to publish this decision as a remedy to the breach.

The article reported on claims made by Dr John Bates, a climate scientist formerly employed at the US National Oceanic and Atmospheric Administration (NOAA), about a paper published in the journal Science that suggested that there had been no "pause" in global warming in the 2000s. Dr Bates had published a blog criticising the way the data used for the paper had been analysed and archived. The article detailed at length the complainant's concerns with the data; it then characterised them as demonstrating "irrefutable evidence" that the paper had been based upon "misleading, unverified data".

The article was illustrated with a graph. It plotted a red line, described as "the 'adjusted' and unreliable sea data cited in the flawed 'Pausebuster' paper", and a blue line, described as "the UK Met Office's independently verified record", which it said "showed lower monthly readings and a shallower recent warming trend". A note at the base of the graph stated that "0 represents 14°C".

The complainant said that the significance of Dr Bates' concerns about the archiving procedures had been misrepresented in the article, and the newspaper had taken no steps to establish the veracity of Dr Bates' claims. World leaders had not been "duped", as the headline said, and there was no "irrefutable evidence" that the paper was based on "misleading, unverified data", as the article had claimed.

The newspaper said that Dr Bates had shown it examples of both fully archived climate data and the less detailed version used for the paper; putting raw data on a website is not the same thing as full data archiving; therefore the evidence that the paper's data was unverified and misleading, was "irrefutable".

The Committee emphasised that its central concern was whether the article had accurately reported Dr Bates' concerns. It decided that the newspaper's claims that Dr Bates' testimony had provided "irrefutable evidence" that the paper had been based on "misleading, 'unverified' data", leading – as the headline claimed – to world leaders being "duped" over global warming, and "convinced" to invest billions in climate change, went much further than the concerns which Dr Bates had detailed in his blog or in the interview; they did

not represent criticisms of the data collection process, but rather, were assertions of fact that the data had been demonstrated to be wrong, had impacted significantly on the decision making of world leaders, with an additional implication of a wilful attempt to deceive.

The article claimed that because of the NOAA's "failure to 'archive'" the data, "its results can never be verified". The Committee did not consider that the article had made sufficiently clear that the failure to archive, had been a failure to archive the data through a particular method, and that the data had been made publicly available. In characterising Dr Bates' claims in this way the newspaper had failed to take care over the accuracy of the article, in breach of Clause 1 (i) and had then failed to correct these significantly misleading statements, in breach of Clause 1 (ii).

The graph which accompanied the article had provided a visual illustration of the newspaper's contention regarding the difference between the "flawed" NOAA data and other, "verified", data. The newspaper's failure to plot the lines correctly represented a breach of Clause 1 (i), and there had been a further failure to correct the significantly misleading impression created as a result. There was a further breach of Clause 1 on this point.

APPENDIX D

Decision of the Complaints Committee
00894-17 Wass v Mail on Sunday

This decision was made in correspondence, following a discussion at the meeting

Summary of complaint

1. Sasha Wass QC complained to the Independent Press Standards Organisation that the Mail on Sunday breached Clause 1 (Accuracy) of the Editors' Code of Practice in an article headlined "Revealed: How top QC 'buried evidence of Met bribes to put innocent man in jail'", published on 9 October 2016.

2. The article arose out of confiscation proceedings relating to Bhadresh Gohil, a lawyer convicted for money laundering offences following a trial at which the complainant was leading counsel for the prosecution. The article reported allegations made by a barrister for Mr Gohil in court, that the complainant had "lied to judges in order to hide damning evidence of police corruption" at Mr Gohil's appeal against conviction. The article reported that Mr Gohil's barrister had claimed in court that the complainant had "buried" an official Metropolitan Police report, which had confirmed that "there was evidence that officers in an anti-corruption unit had taken bribes" from ex-Metropolitan police officers working for RISC, a private investigation firm.

3. The article reported that the complainant had "admitted" to the newspaper that she had seen the dossier in April 2014, two months before she had "backed" charging Mr Gohil, who had brought the report to the attention of the authorities, with attempting to pervert the course of justice. It said that Mr Gohil's barrister had stated in court that when his client was charged "the police, the prosecuting barristers and the CPS all had possession of the file containing evidence of the Met's infiltration by RISC". It said that Mr Gohil had consequently been paid £20,000 by the Crown Prosecution Service (CPS) in an out-of-court settlement for the three weeks he had spent remanded in custody.

4. The article also gave background information about Mr Gohil's conviction. It said that he had previously been convicted for money laundering in relation to his work with James Ibori, a former provincial governor in Nigeria. It said that Mr Gohil "continues to protest his innocence" and that he had "pointed out" that he had been "cleared of wrongdoing after a probe by the Solicitors Regulation Authority". It said that during Mr Gohil's imprisonment, he had received documents which had suggested that RISC was bribing police officers. Mr Gohil had then used these documents to

lodge an appeal against his conviction, claiming that the case against him had been "contaminated by corruption". It said that during the appeal hearing, the complainant had told the court that Mr Gohil's claims were "manufactured really out of nothing and unsupported by any evidence at all", and the court had rejected the appeal. It said that the complainant, and her colleague, had received an email from the CPS, which said that the police had requested that a sentence in the Crown's response to the appeal be deleted. The article explained that the CPS had removed that sentence, and that Mr Gohil's barrister had used this as the basis for an allegation, made in the confiscation proceedings, that "the document had been tampered with in order to mislead the Court of Appeal".

5. The complainant said that the article was not a fair and accurate report of court proceedings. It made a number of false and damaging allegations against her, including that she had knowingly covered up police corruption by hiding and tampering with evidence of corruption; that she had prosecuted a man for perverting the course of justice while knowing him to be innocent, and because he had been a whistle-blower who had uncovered the corruption she had sought to hide; that she had opposed bail on a whim and in order to silence him; and that she had lied to the court.

6. The complainant alleged a large number of inaccuracies, which fell into three themes: the way in which the allegations heard in court were presented, including its reporting of her denial of those allegations; the impression given regarding the extent of her role in taking decisions about the proceedings against Mr Gohil; and the accuracy of the background information reported on the case.

7. The complainant said that the article had failed to explain that the proceedings in which these allegations had been made were confiscation proceedings, and therefore to make clear what was at stake for Mr Gohil and why he might have been motivated to attack those who had previously prosecuted him. The article had also failed to allow her a presumption of innocence, while allowing a man who had pleaded guilty to serious fraud to assert his innocence. The complainant said that the reporter had not been in possession of all the relevant material in order to support the assertions made in the article. Instead, he had relied principally on information given to him by a barrister who could not be considered impartial as he was acting in support of his client's case, and that of a disbarred solicitor and convicted criminal.

8. The complainant said that the damage had been compounded by the newspaper's failure to report accurately and fully her denial of the allegations. The article claimed that she had "admitted" to the newspaper that she had seen the dossier revealing police corruption in 2014. In fact, she had told the newspaper before publication that in April 2014, she had been made aware of Operation Limonium, and that she had been assured

by the police that the officer concerned had been investigated and exonerated of any wrongdoing. She had acted in good faith on the basis of this information; the operation had not "reveal[ed] RISC's 'infiltration' of the Met", as reported. She said the first time she saw the dossier was in December 2015. It could not therefore be said that she had "buried" evidence. She expressed concern that the newspaper had failed to include the denial she gave to the reporter before publication that "[she] would not and did not at any time conceal evidence of corruption. [She] would not and did not knowingly mislead the court".

9. The complainant also said that the article had inaccurately suggested that she had "tampered" with evidence. It was the CPS and police who had sought amendments to the memo in question, despite the fact that her junior counsel had advised that the suggested amendment ought not to be made. She said that she had informed the reporter in advance of publication that "the document you referred to… was a formula that the CPS chose to put before the Court of Appeal to reflect the findings of Operation Limonium". She said the newspaper had adopted the position taken by Mr Gohil's lawyer that the inclusion of a particular sentence in the email would have "given the court reason to wonder whether the Crown was revealing the truth about Mr Gohil's corruption claims", which was misleading. In reality, the alleged corruption had been investigated and the police officer concerned had been exonerated.

10. The complainant was also concerned that the article had deliberately suggested that she had taken decisions about the conduct of the case against Mr Gohil for obstruction of justice, which had in fact been taken by others. She had not "changed her mind" over whether to oppose Mr Gohil's application for bail shortly before he was due to be released from prison; this decision had been taken by the CPS, and the complainant had been notified of it in July 2015. Further, she had not "backed charging Mr Gohil for perverting the course of justice". She had played no role in the decision to bring proceedings against Mr Gohil, which had been approved by the Director of Public Prosecutions in conjunction with the CPS. That decision had been separated from her, as trial counsel, by a Chinese wall. This assertion had given the misleading impression that she had made the decision to bring the charges against Mr Gohil in order to prejudice his appeal and represented a further unfounded allegation of prosecutorial misconduct.

11. The complainant also expressed concern that the article had given the "fanciful" impression that the Court of Appeal's decision to reject Mr Gohil's appeal was based on her statements in court. The Court of Appeal had carefully considered the extent of the evidence and had dismissed it on its merits. She noted that the Court of Appeal judgment had been available to the reporter, in which the Court had stated, in relation to the evidence provided in support of Mr Gohil's appeal, that "none impressed us".

12. The complainant was also concerned about the accuracy of information given on the background to the case. She said that the report that Mr Gohil had been cleared by the Solicitors Regulation Authority (SRA) was inaccurate; rather, the SRA had closed the file, pending the outcome of his trial. This assertion was significantly misleading, as it gave credibility to his claims of innocence and supported the idea that she was responsible for a miscarriage of justice.

13. The complainant also said that the article presented a misleading account of the "whistle-blower" documents used by Mr Gohil in his appeal. She said that the article presented these as genuine when, in fact, the documents had not been sent to him in prison, but had been created by Mr Gohil himself. The newspaper had accepted Mr Gohil's account without any further investigation, and had failed to report compelling evidence of his corruption.

14. The complainant considered that the newspaper had reported that she was "no longer prosecuting cases for the CPS and had 'returned the briefs' in all the cases where she has been instructed", to create the misleading impression that the CPS had demanded she return her briefs because she had behaved improperly. The true position was that at a meeting in February 2016, she had been thanked by the CPS for her contribution to the Ibori cases and it was agreed that a new team of prosecutors would be instructed. In April 2016, as a result of the termination of the perverting case against Mr Gohil, the disclosure processes in the Ibori cases were put under review, and she voluntarily decided to return her cases for the CPS; she had been under no obligation to do so.

15. The newspaper said that the central allegation made in the article, that the complainant had buried evidence which might have assisted the defence in a case she had prosecuted, was an accurate report of a statement made in open court. There was a strong public interest in reporting the allegation, which concerned potential wrongdoing by Crown prosecutors and serious claims of police corruption. It noted that the week before the article was published, the CPS had issued a statement confirming that there was evidence of police corruption, which should have been disclosed to Mr Gohil's defence. It noted that the complainant was no longer taking cases from the CPS.

16. The newspaper said that it had taken care to approach the complainant for her comments on the allegations before publication, and had published her response. However, as its article was an accurate report of public court proceedings, it was not required to investigate all the allegations, nor to attempt to prove whether or not the allegations were well-founded.

17. The newspaper accepted that the complainant had said that she was "aware" of the investigation into possible police corruption and that she had not therefore "admitted" that she had "seen" the "dossier revealing

police corruption", as reported. However, it did not consider that there was a significant difference between seeing the dossier and being aware of the investigation. It had reported her position that it was in January 2016 that she had been provided with "new information" and that she had "advised the Director of Public Prosecutions personally to drop the case". It had also reported her position that she had been assured by police that the corruption had been "investigated and dismissed".

18. The newspaper did not accept that the article had accused the complainant of "tampering with evidence". It had reported, accurately, the circumstances in which the memo had been amended and made clear that the amendment was made by the CPS. The omission of her statement that she had no input in the decision to amend the email in question was not misleading.

19. The newspaper did not consider that the article had given the impression that it was the complainant who had decided to charge Mr Gohil. It had accurately reported that she had "backed" the decision, given that she was leading counsel for the prosecution and had been involved in the case for many years.

20. With regards to the complainant's concern that the article had suggested that she had taken the decision to oppose Mr Gohil's bail only shortly before he was due to be released, the newspaper accepted that the decision had been made in July 2015 and not November 2015. It said that Mr Gohil's barrister had said in court that the decision had been made "to avoid the custody time limits", and Mr Gohil's defence had incorrectly informed the reporter that the Crown had changed its position only shortly before Mr Gohil had been due to be released from prison. The newspaper offered to amend this reference in the online article, but it did not consider that it was a significant inaccuracy, which required correction, as the CPS had not opposed bail in November 2014 or in January 2015, so it was correct that it had changed its position. It was also not significant whether this decision had been made by the CPS or by the complainant as she had represented the Crown in court. There was also no suggestion of malice on the complainant's part.

21. The newspaper denied that the article had given too much weight to Mr Gohil's claims of innocence, given that the article had made clear the seriousness of his offences. It was in the public interest to report that he was appealing against his conviction and that the grounds for that appeal related to police corruption. It acknowledged, however, that since publication, the SRA had confirmed that it had closed its file pending the outcome of Mr Gohil's trial; so it had been incorrect to report that the SRA had cleared him of wrongdoing.

22. The newspaper did not accept that it was inaccurate for it to report that Mr Gohil had received documents which had suggested that RISC had bribed

police officers. Mr Gohil's prosecution for forging documents had been dropped and he had subsequently received substantial compensation. In any event, the article had also reported that the complainant had told the Court of Appeal that Mr Gohil's claims of corruption had been manufactured.

23. The complaint was made directly to the newspaper on 14 October 2016, and the parties made efforts to resolve the matter. On 2 February, the complainant contacted IPSO as she was concerned that she had yet to receive a satisfactory response from the newspaper. IPSO began its investigation on 21 February 2017, and on 11 March 2017, the newspaper offered to make various changes to the online article, including the publication of the following footnote:

This article has been amended since publication to make clear that Ms Wass did not admit seeing the dossier about police corruption in April 2014 before Mr Gohil was charged with attempting to pervert the course of justice. She says she was assured, at that time, that there was nothing adverse to report. Also, Mr Gohil was not cleared of wrongdoing by the Solicitors Regulation Authority.

On 12 April, the newspaper confirmed that a similar wording would be published in the Corrections and Clarifications column in print; and on 24 May 2017, the newspaper amended the wording to include an apology. The wording was as follows:

Regarding an article on October 9, 2017, "How top QC 'buried evidence of Met bribes'…", we would like to make clear that Sasha Wass QC did not admit seeing a dossier about police corruption in April 2014 before a defendant was charged with attempting to pervert the course of justice. We apologise for this error. Ms Wass says she was assured, at that time, that there was nothing adverse to report. Also, the defendant Bhadresh Gohil was not cleared of wrongdoing by the Solicitors Regulation Authority.

24. At the end of IPSO's investigation, the newspaper noted that the Court of Appeal had recently agreed to list a full hearing of Mr Ibori's application for permission to appeal against his convictions, and it provided a copy of the grounds for the appeal. It considered that the grounds of appeal relied strongly on allegations that the complainant had misled the court by failing to disclose material that would have assisted the defence, and said that this provided further justification for its having reported on the matter. It noted that the grounds of appeal alleged that the complainant's junior and CPS lawyers had been given details of the corruption inquiry in 2012, and the newspaper argued that the police had apparently rejected the complainant's assertion that she had known nothing of the detail of the inquiry until January 2016. The newspaper said that the writer had been aware of the substance of these allegations when he wrote the article; he had been informed by confidential sources that counsel had seen

documents in 2012, and that the police had challenged her claim about not seeing them until 2016.

25. The complainant said that the newspaper had sought to rely on documents that were not in existence at the time of publication. She said that the grounds of appeal contained claims made by a convicted criminal who was seeking to appeal his convictions; it was not evidence which could be relied on to support the article. Furthermore, the Grounds of Appeal had provided evidence to support her complaint: it was admitted that there was no evidence to prove the claim that the lawyers in the case were complicit in any misconduct. Should there be any such evidence, the complainant submitted that it would have been identified in the Grounds of Appeal.

Relevant Code provisions

26. Clause 1 (Accuracy)

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

ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and — where appropriate — an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

iii) A fair opportunity to reply to significant inaccuracies should be given, when reasonably called for.

iv) The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.

Findings of the Committee

27. The newspaper had published at length extremely serious and potentially damaging allegations about the complainant's conduct, integrity and credibility, and described her as "facing professional ruin".

28. The newspaper was entitled to report on proceedings heard in open court, but in circumstances where such damaging allegations were being made, it had an obligation to ensure that it did so in a manner that was accurate and not misleading. This included the publication of material in the article which related to matters that had not been heard in court but which provided context for those claims.

29. The Committee noted that the grounds of appeal, provided by the newspaper at the end of IPSO's investigation, had repeated the allegations made against the complainant. However, the accuracy with which the allegations had been reported was not changed by the fact that they had been amplified in a document, produced after publication, on which the Court of Appeal had yet to rule.

30. The newspaper had contacted the complainant for her comment on the allegations made against her in court before it proceeded to publish them. However, the Committee was very concerned that it had failed to accurately report her denials of the allegations. The complainant had not, as the article claimed, "admitted she had seen the dossier revealing RISC's 'infiltration' of the Met" in April 2014, which the newspaper conceded. In addition, the newspaper had failed to report the complainant's denial that "[she] would not and did not at any time conceal evidence of corruption. [She] would not and did not knowingly mislead the court". The article was significantly misleading on these points: the claim that she had seen the dossier suggested that she had direct knowledge of its content, which she denied, and the failure to publish the complainant's further denial of impropriety could potentially give support to the allegations of professional misconduct. This represented a serious failure to take care over the accuracy of the article in breach of Clause 1 (i).

31. The Committee was also concerned that the article had given the misleading impression that the complainant had taken key decisions in the case, which had, in fact, been taken by others. It noted in this regard that the newspaper had asserted that she had "backed charging Mr Gohil for perverting the course of justice". However, the decision to bring proceedings against Mr Gohil had been made by the Director of Public Prosecutions, not the complainant. The article had also asserted that the complainant had "changed her mind" and had taken the decision to oppose Mr Gohil's bail shortly before he was due to be released from prison. While the Committee acknowledged that the complainant had acted on behalf of the CPS and had not opposed bail in court, it was not her decision as to whether bail should be opposed, and the decision had not been made "a few days before he was due to be freed"; the decision had been made in July 2015, and Mr Gohil's scheduled release was in November 2015.

32. The Committee considered that these inaccuracies, together, had given the significantly misleading impression that the complainant had had greater influence over the conduct of the case than was the position, and that she had potentially abused this authority. The impression given supported the damaging allegation that she had "buried evidence…to put [an] innocent man in jail". This represented a further failure to take care over the accuracy of the article in breach of Clause 1(i). A correction was required in order to avoid a breach of Clause 1(ii).

33. The Committee noted the complainant's concern that the newspaper had suggested that she had "tampered" with evidence when the decision to amend the email in question had been taken by the CPS. However, the article had not claimed that the complainant had "tampered" with evidence; it had accurately quoted Mr Gohil's barrister, who had claimed in court that "a document was tampered with in such a way as to mislead the Court of Appeal". The article had made clear that the amendment to

the document had been made by the CPS. The newspaper was entitled to publish its opinion that the inclusion of the amended sentence "would have given the court reason to wonder whether the Crown was revealing the truth about Mr Gohil's corruption claims". There was no breach of the Code on this point.

34. The Committee also considered the complainant's concern regarding the assertion that the court had "accepted everything she said and rejected the appeal". While the judge would also have considered the strength of the evidence provided by Mr Gohil's defence, the complainant had argued in court that Mr Gohil's claims of police corruption were unfounded, and the court had subsequently dismissed the appeal. In these circumstances, the Committee did not consider it was significantly misleading to state that the court had "accepted" what the complainant had said in court. There was no breach of the Code on this point.

35. With regards to the accuracy of the reported information on the background to the case, the Committee was concerned that the article had inaccurately reported that, despite his conviction for fraud, Mr Gohil had been cleared of wrongdoing by the SRA. This assertion in the article had given the significantly misleading impression that Mr Gohil's claims of innocence were supported by the SRA's findings. Moreover, it had given further unjustified credibility to the allegations of misconduct made against the complainant in court. The newspaper's failure to check this assertion before publication represented a further breach of Clause 1(i). This point required correction in order to avoid a breach of Clause 1 (ii).

36. The complainant had expressed concern that the newspaper had adopted as fact Mr Gohil's position that he had received documents, suggesting police corruption, while in prison. It was not disputed that this was Mr Gohil's position in his unsuccessful appeal, and the article made clear that his appeal had been dismissed. The article further made clear the complainant's position that Mr Gohil's claims were "manufactured really out of nothing and unsupported by any evidence at all", and that they were "bogus". In such circumstances, the Committee did not consider that the reference to these documents was significantly misleading and there was no breach of the Code on this point.

37. It was accepted that the complainant was "no longer prosecuting cases for the CPS". The article had not given the misleading impression that the CPS had demanded that she return her briefs because she had acted improperly. Indeed the article stated that she was currently prosecuting for the Serious Fraud Office. There was no breach of the Code on this point.

38. The newspaper had first been made aware of the complaint on 14 October 2016. The newspaper initially offered to consider amendments to the online article in December 2016 and subsequently offered to make further amendments and to publish a correction on 11 March 2017. The wording

of the correction offered by the newspaper made clear that the complainant had not admitted to seeing a dossier about police corruption in April 2014, and it recorded her position that she had been assured that there was nothing adverse for her to report to the court. It also stated that Mr Gohil had not been cleared of wrongdoing by the SRA, and it included an apology, which was required under the Code, given the seriousness of the inaccuracy that suggested she had admitted having seen the dossier in 2014. However, the Committee was very concerned that it had taken the newspaper nearly five months to take steps to correct these inaccuracies. Furthermore, the wording offered had not addressed the misleading impression given by the inaccurate assertions that the complainant had "backed" charging Mr Gohil, and that she had "changed her mind" in relation to his bail application shortly before he was due to be released from prison. This represented a failure to correct significantly inaccurate information promptly and a breach of Clause 1(ii) of the Code.

Conclusion

39. The complaint was upheld.

Remedial action required

40. Having upheld the complaint, the Committee considered what remedial action should be required.

41. The newspaper had published significantly inaccurate information and it had failed to comply with the obligations of Clause 1(ii) by promptly offering to publish a correction. As such, the Committee required the publication of an adjudication.

42. As the inaccurate information had appeared on page 38 and 39 of the print edition, the Committee required the newspaper to publish the adjudication on page 38 or further forward.

43. The wording of the headline to the adjudication should be agreed with IPSO in advance, or in the absence of agreement, as determined by the Complaints Committee. It should refer to IPSO, include the title of the newspaper, make clear that the complaint was upheld, and refer to the subject matter. The placement on the page, and the prominence, including font size, of the adjudication must also be agreed with IPSO in advance.

44. The adjudication should also be published on the newspaper's website, with a link to the full adjudication appearing on the top half of the homepage for 24 hours; it should then be archived in the usual way.

45. The terms of the adjudication to be published are as follows:

Following an article published on 9 October 2016 in the Mail on Sunday, headlined "Revealed: How top QC 'buried evidence of Met bribes to put innocent man in jail'", Sasha Wass QC complained to the Independent Press Standards Organisation that the newspaper had breached Clause 1 (Accuracy) of the Editors' Code of Practice. IPSO upheld the complaint and has required the Mail on Sunday to publish this decision as a remedy to the breach.

The article arose out of confiscation proceedings relating to Bhadresh Gohil, a lawyer convicted for money laundering offences following a trial at which the complainant was leading counsel for the prosecution. The article reported allegations relating to the complainant's conduct of the prosecution, made by a barrister for Mr Gohil in court.

The article also gave background information about Mr Gohil's conviction. It said that he had previously been convicted for money laundering; that he "continues to protest his innocence"; and that he had "pointed out" that he had been "cleared of wrongdoing after a probe by the Solicitors Regulation Authority".

The complainant said that the article included a number of damaging allegations about her conduct of the prosecution that were entirely without foundation. She also said that the newspaper had inaccurately reported that she had made key decisions in the case against Mr Gohil, giving the impression that she had acted in spite.

She was further concerned about the accuracy of information given on the background to the case. She said that the report that Mr Gohil had been cleared by the SRA was inaccurate; rather, the SRA had closed the file, pending the outcome of his trial. This assertion was significantly misleading, as it gave credibility to his claims of innocence and supported the idea that she was responsible for a miscarriage of justice.

The newspaper said that the article's central allegation was an accurate report of a statement made in open court. It also said that it had taken care to approach the complainant for her comments on the allegations before publication, and it had published her response.

During IPSO's investigation of the complaint, the newspaper offered to publish a correction, addressing some of the inaccuracies raised by the complainant.

The Committee was very concerned that the newspaper had failed to accurately report the complainant's denials of the allegations. This represented a failure to take care over the accuracy of the article. It was also concerned that the article had given the misleading impression that the complainant had taken key decisions in the case, which had, in fact, been taken by others.

The Committee considered that these inaccuracies together had given the significantly misleading impression that the complainant had had greater influence over the conduct of the case than was the position, and that she had potentially abused this authority. The impression given supported the damaging allegation that she had "buried evidence…to put [an] innocent man in jail". This represented a further failure to take care over the accuracy of the article in breach of Clause 1(i). A correction was required in order to avoid a breach of Clause 1(ii).

The Committee was also concerned that the article had inaccurately reported that, despite his conviction for fraud, Mr Gohil had been cleared of wrongdoing by the SRA. This assertion had given the significantly misleading impression that Mr Gohil's claims of innocence were supported by the SRA's findings. Moreover, it had given further unjustified credibility to the allegations of misconduct made against the complainant in court. The newspaper's failure to check this assertion before publication also represented a breach of Clause 1. This point also required correction.

The wording of the correction offered by the newspaper addressed some of the inaccuracies raised by the complainant, and it included an apology, which was required under the Code, given the seriousness of the inaccuracy. However, the Committee was very concerned that it had taken the newspaper nearly five months to take steps to correct the inaccuracies identified by the complaint. Furthermore, the wording offered had not addressed the misleading impression given by the further inaccuracies about the complainant's conduct in prosecuting the case. This represented a failure to correct significantly inaccurate information promptly in breach of Clause 1(ii) of the Code. The complaint under Clause 1 was upheld.

APPENDIX E

Paper No.	File Number	Name v Publication
989	01685-17	Note to Committee – Versi v Mail Online
993	01071-17	Manfield v Enfield Gazette & Advertiser
994	13577-16	Ayub v Telegraph & Argus
995	00613-17	O'Connor v The Irish News

997	00349-17	Trotman v The Times
998	00342-17	Pandor v Daily Mail
1002		Request for review
1003	01125-17	Mascarenhas v Daily Express
1004	00733-17	Versi v express.co.uk
1005		Request for review
1008	13839-16	The Rt Hon. Baroness Patricia Scotland QC v Daily Mail
1009	13840-16	The Rt Hon. Baroness Patricia Scotland QC v The Mail on Sunday
1010	13841-16	The Rt Hon. Baroness Patricia Scotland QC v Mail Online
1013	01020-17	A woman v Dartford & Swanley News Shopper
1014	14380-16	Easton v Sunday Life
1016	00281-17	Brighton & Hove City Council v The Argus (Brighton)
1018	00722-17	Goring v Press & Journal
1019		Request for review
1021	14333-16	Gray v Inverness Courier
1024		Request for review
1025	01578-17	Jones v thescottishsun.co.uk
1027	14203-16	Granger v The Scottish Sun (Sunday)
1028	00866-17	Beckwith v Mirror.co.uk
1030	05870-17	Note to Committee – Zacklova v Daily Mail
1031		Request for re-open – Various v Telegraph.co.uk
1032	13130-16/13131-16	Lister v Lincolnshire Echo/Boston Target
1033		Request for review
1035	01396-17	Versi v express.co.uk
1037		Request for review