

Mr Frank Lampard v News of the World

Clauses noted: 1, 2

Mr Frank Lampard complained to the Press Complaints Commission, through Russells solicitors, that an article headlined 'My secret sex games with Lampard and 4 other stars' published in the News of the World on 3 October 2004, was inaccurate in breach of Clause 1 (Accuracy) and had failed to offer him an opportunity to reply in breach of Clause 2 (Opportunity to reply) of the Code of Practice.

Following an offer of remedial action from the newspaper, there were no further issues to pursue under the terms of Clause 1 of the Code. There was no breach of Clause 2.

The article reported the claims of glamour model Jodie Marsh that she had had a 'secret fling' with the footballer Frank Lampard, among others. It also suggested that she had kept explicit photographs of her sexual encounters as evidence.

The complainant denied these claims, and insisted he had never had any sexual relationship of any kind with Ms Marsh.

In its response to the Commission, the newspaper provided a signed statement from Ms Marsh, in which she claimed that her relationship with the complainant had become sexual on two occasions when they were teenagers. She said that on both occasions they had done 'everything...except have sexual intercourse'. The newspaper also provided the name of a witness in whom Ms Marsh had previously confided about the alleged encounters with the complainant.

The complainant's solicitors maintained that the article had strongly suggested that Ms Marsh had had sexual intercourse with the complainant, while pointing out that Ms Marsh had subsequently admitted both that sexual intercourse had not taken place and that she did not have explicit photographs of the alleged encounters. The article was therefore inaccurate. Moreover, the newspaper had failed to contact the complainant's representatives in advance of publication. The result was a breach of the Code.

In an attempt to resolve the matter in line with the Commission's normal procedures, the newspaper then offered to publish a clarification, making clear that the 'steamy encounters' alleged by Ms Marsh had stopped short of full intercourse. It subsequently improved this offer to include the fact that the complainant had denied any such encounters with Ms Marsh at all. There was a second part to the proposed clarification, in which it was made clear that no Polaroid photographs of the alleged encounter existed.

The complainant's solicitors did not accept this proposal, and submitted an alternative wording which they felt was more acceptable. The newspaper declined to publish this statement.

Adjudication

There was clearly a dispute between the parties about whether or not the complainant and Ms Marsh had ever had a sexual encounter. While the newspaper had been able to submit a signed statement from Ms Marsh in which she contended that she had had sexual encounters with the complainant on two occasions, the complainant maintained that he had never had any sexual relationship with Ms Marsh at all. This was a matter which it was not within the Commission's powers to resolve either way. In these circumstances, the Commission's normal approach is to encourage the publication concerned to publish the complainant's position on the matter. The Commission was pleased that the newspaper had offered to do so in a statement that said that he denied Ms Marsh's claims of 'steamy encounters'. The Commission was satisfied that this offer was a suitable remedy to this part of the complaint. This statement would also have made the

complainant's position clear to any readers who had understood from the article that sexual intercourse had taken place – something that the Commission noted had not actually been stated, but which the complainant thought had been implied.

The complainant also said that the suggestion that Ms Marsh had Polaroid pictures of the alleged encounter was inaccurate – something that was conceded by Ms Marsh. In these circumstances, it was incumbent on the newspaper itself to make clear that the suggestion was inaccurate, rather than simply to state that the complainant had denied the claim. The Commission noted that the proposed clarification did indeed state that no pictures of the alleged encounters existed. This was a sufficient response to this part of the complaint. The Commission therefore considered that the offer as a whole was a proportionate remedy to the complaint under Clause 1. As the newspaper had given this opportunity to reply, there was no breach of Clause 2.

However, the Commission regretted that a resolution had not been possible, given how close the parties were to an agreed wording. It hoped that the complainant would now take up the newspaper's offer.

Relevant rulings

Ferdinand v Daily Star, 2004

EMI Records v News of the World, 2004

Charles Clarke MP v The Times, 2002

Adjudication issued 2005