

*Iain Dale v Daily Mail*

Clauses noted: 12

Mr Iain Dale of Kent complained to the Press Complaints Commission that an item in the Ephraim Hardcastle diary column, published in the Daily Mail on 30 September 2009, contained discriminatory references to his sexual orientation in breach of Clause 12 (Discrimination) of the Code of Practice.

The complaint was not upheld.

The piece reported that the complainant was on the shortlist of people applying to be the Conservative candidate for the parliamentary constituency of Bracknell. It described him as 'overtly gay', and referred to an interview he had given to Pink News in which he encouraged its readers to attend the open primary, saying it was 'charming how homosexuals rally like-minded chaps to their cause'.

The complainant said that the article was pejorative and snide, and that his sexual orientation was irrelevant to his decision to stand as a parliamentary candidate. The implication of the word 'overtly' was that he flaunted his sexuality, which was not the case. Read in conjunction with the comment about homosexuals sticking together, the article was homophobic.

While the newspaper regretted that the item had upset the complainant, it did not accept that there had been any pejorative reference to his sexuality. The complainant did not hide his sexual orientation, so could justifiably be described as being overt - meaning 'open' - about it. Moreover, the complainant had chosen to speak to Pink News about his political ambitions.

*Adjudication*

The Commission could understand why the complainant had found the comments about him to be snide and objectionable. But the fact that he had taken offence did not in itself mean that Clause 12 of the Code had been breached. The particular terms used, and the context of the item itself, were important here.

For instance, the newspaper had used no pejorative synonym for the word 'homosexual' to describe the complainant: this would certainly have been a breach of the Code. Neither had the complainant been outed as gay by the column - which would also have been a breach - as he had frequently and publicly referred to his sexual orientation. Rather, the complaint seemed to be that describing him as 'overtly gay' at the same time as saying it was 'charming how homosexuals rally like-minded chaps to their cause' was spiteful to the point of homophobia. This was a more subtle and subjective charge against the newspaper.

In coming to a conclusion on the matter, the Commission had to have regard to the context in which the remarks were made. They appeared in a diary column which is well known for its mischievous - and sometimes self-consciously fusty - remarks that poke fun at the antics of public figures. The piece followed the complainant's own comments to Pink News - a news website aimed at gay people - about his attempt to secure the nomination in Bracknell. It may have been an uncharitable account of the complainant's position - and any intended humour may have been lost on some readers - but the item appeared to be relevant to the news, and to fit into the column's style, rather than constitute an arbitrary attack on him on the basis of his sexuality.

This might strike some as a fine distinction to make, but where it is debatable - as in this case - about whether remarks can be regarded solely as pejorative and gratuitous, the Commission should be slow to restrict the right to express an opinion, however snippy it might be. While people may occasionally be insulted or upset by what is said about them in newspapers, the right to freedom of

expression that journalists enjoy also includes the right - within the law - to give offence. The Commission regretted that the item had upset the complainant, but the complaint was not upheld.

Adjudication issued 5/11/2009