



**FINANCIAL  
TIMES**



## **ADJUDICATION**

by

**GREG CALLUS**

**EDITORIAL COMPLAINTS COMMISSIONER**

**Financial Times Limited**

1. This is an Adjudication of a complaint by Dr Peter Liddell (“the Complainant”) concerning an article by Henry Mance and Madison Marriage in the *Financial Times* published on 11 October 2019, headlined: “*Scheming Spires*” (“the Article”). In summary, it concerned the disputes that have arisen at Christ Church, a college of Oxford University, between the college and its Dean (the Very Reverend Martyn Percy). The article is still available online on the FT website: <https://www.ft.com/content/2cb52a3e-eaad-11e9-a240-3b065ef5fc55> .
2. The complaint was originally sent to me directly. I explained that I could not deal with complaints except on appeal, and indicated that my role (even on appeal) was limited to complaints under the FT Editorial Code (incorporating the IPSO Code). At first instance, the Complainant needed to submit his complaint to the Editor. He did so, and that complaint was rejected by Nigel Hanson on behalf of the Editor by correspondence of 12 December 2019. The Complainant now appeals to me.

### **Accuracy & the IPSO Code**

3. The complaint is now formulated under Clause 1 of the IPSO Code which is annexed to the FT Editorial Code of Practice: <https://aboutus.ft.com/en-gb/ft-editorial-code/> . Clause 1 (Accuracy) of the IPSO Code provides that:

*“1. Accuracy*

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

*1.2 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.*

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

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

1.5 *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.*”

4. I most-recently gave a definitive version of what I consider to be the proper construction of Clause 1 of the IPSO Code at paragraphs [62] to [69] of my *Libi Adjudication* (10 April 2018), which can be read in full online at this URL: [https://ft1105aboutft-live-14d4b9c72ce6450cb685-1b1cc38.aldryn-media.io/filer\\_public/39/a5/39a58dde-c276-42cc-a919-ab6382985243/libi\\_adjudication.pdf](https://ft1105aboutft-live-14d4b9c72ce6450cb685-1b1cc38.aldryn-media.io/filer_public/39/a5/39a58dde-c276-42cc-a919-ab6382985243/libi_adjudication.pdf)
5. Those paragraphs discuss Clause 1 in the following terms:

*“Framework*

62. *First, the specific rule about breach by “headlines not supported by the text” of an article is a free-standing basis of complaint, even though it falls within Clause 1.1.*

63. *Second, as I noted in the Berkley Adjudication , there is a critical difference between Clause 1.1 (which concerns negligence prior to first publication) and Clause 1.2 (which concerns the newspaper’s willful refusal to amend serious matters post-publication, once the alleged breach has been communicated:*

*“However, it is important to understand what exactly constitutes a breach of Clause 1 (Accuracy):*

8.1 *Clause 1.1 will only be breached if the Press has not taken care to avoid publishing inaccurate information. It is a rule against slapdash journalism that is negligent about setting out the facts. It is not a rule which is breached by the mere presence of any inaccuracy however minor. It is breached only by such inaccuracies that a careful newsroom could and should have avoided publishing.*

8.2 *Clause 1.2 will only be breached if the Press has refused to properly correct, clarify or apologise for a ‘significant inaccuracy, misleading statement or distortion’. Clause 1.2 is therefore different to Clause 1.1 in two material respects: first, the inaccuracy must be ‘significant’; and second, the breach is not one of negligent omission, but intentional refusal to amend”*

64. *Third, Clause 1 is not an ‘asterisked’ clause, so there is not a general exception to Clause 1 by virtue of the Public Interest Clause. However, I must construe Clause 1 in accordance with Article 1(6) and 1(7) above, so as to recognize the rights of the FT and its readers in balance with the rights of complainants and subjects of articles.*

65. *Fourth, this is relevant insofar as I have (in the Portes Adjudication) opined on the meaning of Clause 1's "inaccurate, misleading, or distorted".*

*"23. Although headed "Accuracy", Clause 1 actually concerns itself with three forms of error: statements of fact may breach by being either inaccurate, misleading, or distorted. The forms of remedy available if Clause 1 is breached are: correction, clarification, and apology. It is implicit in both the distinction between 'inaccurate' and 'misleading', and in the distinction between a 'correction' and a 'clarification' that a statement of fact may be entirely correct, and yet still breach Clause 1.*

*24. Whether a statement is 'inaccurate' (in the narrow sense of factually wrong, and requiring a correction) can be judged by comparing the published information to a provably true version of the information. If they differ, and the difference is 'significant', a correction will be directed.*

*25. A statement will be 'misleading' where the objective reasonable reader of the FT would take away an erroneous belief about the subject of that statement, even though the statement was true. The words "John Doe has been caught in bed with woman who isn't his wife" may be perfectly true because John Doe has never married, but if a reasonable reader would take away that John Doe is both married and having an extra-marital affair, the statement is misleading. Significant misleading statements will require clarification, not correction, given that the information is not intrinsically inaccurate.*

*26. What then of 'distorted'? It clearly is intended to mean something distinct from 'misleading'. My provisional view is that whereas a misleading statement misinforms the reasonable reader about the factual content of that statement, a 'distortion' is an assembly of statements that are neither inaccurate, nor misleading, but collectively give an impression that a reasonable and fair-minded person in possession of all the facts would not have. To say of Adolf Hitler that he was a vegetarian, liked dogs, painted watercolours, and never cheated on his wife might not be inaccurate or misleading in any of the specifics, but would give the most grossly distorted view of his character.*

*27. An alleged distortion therefore requires me to find the limits of fair and reasonable views of an article's subject matter, to see if the article (although the facts are true) is a distortion of the picture generally. Partly for the reasons discussed above, I will be much more wary of doing so where the complaint is about an OpEd (where readers should expect a columnist to be giving a particular, subjective view on 'the truth') than in the news sections (where there is a reasonable presumption of objectivity and fairness)."*

66. *In one respect, these definitions need some refinement, in particular as to 'distortion' (which was not in issue on that occasion). Nigel Hanson of the FT rightly objects to my reference to 'fairness' (a subjective standard), where Clause 1 concerns objective error, and so references to the 'fair and reasonable reader/views' should simply be read as saying 'reasonable reader/views'.*

67. *The further objection is that my definition of ‘distorted’ requires the ‘reasonable reader’ to be in possession of ‘all the facts’, which is itself a subjective definition (what are ‘all’ the facts? Who decides what facts must be included in the mix?) and cuts against editorial judgment and freedom. I can appreciate the concern, but this may be a matter of infelicitous phrasing, rather than a real obstacle to adjudication.*

68. *The FT’s submission is that ‘distortion’ means “a statement or series of statements that, when a publication is read and considered in its entirety, bear(s) for the ordinary and reasonable FT reader in possession of important relevant facts pertaining to the particular matter in question and in-existence and available pre-publication, a meaning that significantly and insupportably twists or misrepresents the true position or state of affairs”. This represents that ‘distortion’ is still (being in Clause 1) a species of ‘inaccurate’ or ‘misleading’ information. I accept this submission.*

69. *It is important to recognise that while the latitude afforded editorial will be at its greatest in opinion pieces, there is also a wide discretion afforded to editorial as to the picture painted with true facts. Where there are not many or major elements of a story that are false, it will be very rare that a news article will be outside the bounds of that editorial discretion. It is not for me to substitute my view for that of the editor.”*

6. I consider that this approach remains correct, and therefore apply it to the facts of this particular complaint about this particular Article.

### **Application to the Facts**

7. The Complainant’s case is comprehensive, but sufficiently brief that I can set it out below in full for ease of reference:

*“I have received a response from Mr. Hanson, which I will forward separately. In my view, he does not fully address the issues I have raised. I refer to the following sections of the IPSO and FT Codes:*

*FT 1.2 Responsibility “to reinforce the FT’s reputation for accuracy, truthfulness, honesty and authority.”*

*IPSO 1.1 “not to publish inaccurate, misleading or distorted information.”*

*FT 4.12 (a) “Facts are to be clearly distinguished from interpretations....opinion and other types of non-factual information.*

*FT Annex 1 Preamble. “The Code .. is to be honoured not only to the letter but in the full spirit.....”*

*1) Mr. Hanson does not reply to my assertion that the writers of the article did not investigate the comments made by donors on the GoFundMeMartyn Percy website. I append a few:*

*a) “I cannot tolerate the continuing injustice, with its financial and emotional impact. I pray for some sanity to be brought to bear.”*

- b) *"I abhor injustice wherever it occurs."*
- c) *"A further donation to help with additional costs."*
- d) *"I think it is important that all Martyn's costs should be recovered..... it is outrageous that he is not allowed to recover his costs.....as he is the one who was falsely accused."*
- e) *"The Governing Body are trying to keep the tribunal report secret as it exonerates Martyn and is critical of the Governing Body. I urge everyone to write to Christ Church to insist the report is made public."*
- f) *"Anonymous: £5,000."*

*There are 609 of these comments representing 750 donations raising £90,000. How is it that the FT ignores these named individuals in favour of a dozen unnamed "insiders", who are only able to present a partial view, since the full report has not been published? How is it that "public interest", as described in the Codes, trumps accuracy? It is not sufficient to claim that editorial discretion is sufficient rationale. Omission needs to be justified.*

*2) Mr. Hanson states that the Dean was invited to give his response. Mr. Hanson must know that the Dean was unable to give a response. The tribunal, with its sub judice status, is complete but he cannot speak about the issues without breaking the seal of the report. The accusers do not wish the report to be published and yet they appear to be leaking parts from it. This illogicality is self-condemning. For the FT to repeat it and offer as a get-out clause that the Dean was offered the opportunity to respond is a false alternative.*

*3) Mr. Hanson suggests that it is simply a question of personal selectivity between what the feature writers chose to say and what I would favour. There is evidence that I am not alone in witnessing a slant. Plainly the bloggers ran with it. Andrew Brown writes in the Church Times on 18 October "clearly the piece was more influenced by the forces opposed to the Dean than by his side" and "the real cleverness lies in the use of Dr Percy's background against him, the suggestion that any Anglican clergyman is going to be a second rater."*

*4) A number of comments are reported, all of which are, of course, unattributed. They are left hanging in the air to create an impression.*

*a) "diminishing pool of talent". This observation would presumably apply to the Dean's predecessor, who, to judge by his published output, was less of an academic than Martyn Percy. Why is it applied now only to him?*

*b) "unemployable". This is a wishful prophecy. It disguises the fact that the intention evidently was to ruin the Dean.*

*c) Oxford and Christ Church is a world-leading institution. It has been widely reported that the tribunal report was highly critical of the Governing Body. The logical consequence is that if even more serious criticisms are found to apply, then there will be even more reason for the college to be a world leader.*

*d) The Sheffield issue showed that Percy was supposedly out of order. Dean Percy spoke for the women priests of the diocese.*

e) Percy saw himself as a “reformer.” What reforms did the Dean propose? Readers might have been quite impressed by some of these if they had had the opportunity to know what they were.

Mr. Hanson uses the word “proportionality” and by associating it with me elides in the same way as does the article. “Proportionality” suggests simply a degree of un/acceptability. I said “imbalance”, which communicates omission that is at odds with “truthfulness” and “honesty”. I do not accept Mr. Hanson’s elision, which mirrors the sleight of hand character of statements in the article.

5) A large part of the paper is taken up with the matter of the Dean’s salary. I have addressed that in my previous letter. What I did not include was its sleight of hand aspect, visible in the above examples. The sleight of hand in relationship to the salary issue is that by focusing there, attention is diverted from the central questions: Why is the report not being published? and What justification do the trustees have for spending £1.5 million themselves and thrusting £0.5 million on to an individual in a private capacity if the purpose was not to ruin him?

Mr. Hanson says that “there was no desire to devalue the Dean’s qualities and status”. This is a denial which is empty when set against the tone and the choice of priority for the opening paragraphs. Para. 2 states that the reason why the Dean sought a pay rise was because he was surrounded by wealth. This is an interpretation. FT Code 4.12 states that facts are to be clearly distinguished from interpretations and opinions.

6) Mr. Hanson gives as a reason for not replying to my initial letter that I sent it to ean@ft.com

I did so because I telephoned FT reception and explained that I wished to submit a complaint. The receptionist consulted with a colleague and directed me to the address. I do not accept that the responsibility for non-reply was in any way mine. From my point of view, it looks as if the lack of reply was unwillingness to the point of evasion. If ean@ft was not going to deal with the issues I raised they could have sent it to who could. It must have been within their competence to forward it to “letters” or to inform me that I should re-send it to letters and to whichever department dealt with complaints. The letter was both for publication and for a response from FT itself. Neither happened until you escalated the matter, which I appreciate.

7) Mr. Hanson chooses to engage with me about the use of titles, in the course of which he makes an interpretation about my own use. My use is as follows: 3 Oct. “Dean” x 5, “Dr. Percy” x 1; Oct. 13, “Dean” x 5, “Martyn Percy” x 1, the latter being not for “concision” but in the context of my speaking of a fellow clergyman. Perhaps Mr. Hanson could explain why in the March article the solecism “Rev. Percy” was used and not “Professor Percy.”

8) I submitted a second complaint about the omission of philanthropy, charitable sector and religion from the categories of invited subscribers. Since this was a complaint, what has happened to it? It is not irrelevant. In The Times of 13th

*December there is an article headed: "Oxford college at war with cathedral dean." It is a model of objectivity. The difference is that it was written by their Religious Affairs Correspondent. The FT clearly does not have a Religious Affairs Correspondent and yet it chooses to write on a subject where it is uninformed to the point of being ill-informed, subtly allusive to the point of being prejudicial and unquestioning to the point of being collaborative.*

*8) One of the "left-hanging-in-the-air" comments was "he has come back in a really vengeful way." It seemed to me, at the time, that this might well be a projection. The news reported in the Times and circulated to alumni/ae seems to bear this out. It appears that it his accusers, in their reaction to the tribunal decision and the disclosure of the legal advice that the report should be made available to the governing body, who have now "come back in a really vengeful way." I put it to the FT that its article, whether intentionally or unintentionally, has been a conduit for those who have been striving to bring about further vengeance.*

*9) The FT is a market leader in terms of its commentary on financial affairs. Its Code is meticulous in this area. With this mind-set, readers are likely to conclude that its commentary on other affairs will be circumspect to the same degree. The Scheming Spires article, in its unacknowledged sleight of hand style, elision of issues and lack of detailed complementary commentary, is at odds with the "full spirit" as well as the "letter" of the Codes."*

8. Which, if any of these complaints concerns 'inaccuracy' in the strict sense of a fact in the Article that is said to be provably wrong when compared to the 'true' fact? In my view, none of them. The only one that comes close is the complaint that the Dean was not given the correct title (see the Complainant's Appeal at (7)), but as Mr Hansen observed, the FT relied upon its own house style to refer to the Dean throughout the Article as "Percy" without according him further styles. It was entitled to do so.
9. If there is no outright inaccuracy (in the strict sense) is the Article said to be 'misleading' in the technical sense (in that it provides true facts that lead a reader to believe something that is factually untrue)? Again, none. If the Article (rather than Mr Hanson) had said that the Dean had refused to comment but failed to mention that he was prohibited from doing so under a *sub judice* rule (which I assume, but cannot find, to be correct), that **might** (I go no further) be misleading, but the Article itself makes no mention of asking the Dean for comment, so the Article cannot be misleading in this respect.



10. The nub of the Complainant's case, as I understand it, appears to be under the 'distortion' limb of Clause 1. In summary, having regard only to the complaints about the content of the Article itself (other matters *in italics* being outwith my jurisdiction):
  - (1) Omission of reference to (or investigation of) positive comments about the Dean on a GoFundMe website to help him with legal costs;
  - (2) [*the Dean declining to comment*];
  - (3) Some readers thought the Article was slanted against the Dean;
  - (4) Unattributed comments creating an imbalanced impression;
  - (5) Excessive focus in the discussion of the Dean's salary;
  - (6) [*a procedural complaint*];
  - (7) Failure to use the Deans proper styles or titles (addressed above);
  - (8) [*lack of a separate subscription category for charitable subscribers*];
  - (8) [sic] A comment about 'vengeance' indicating the FT has been a conduit (intentionally or otherwise) for those opposed to the Dean;
  - (9) "Sleight of hand style, elision of issues and lack of detailed complementary commentary" being at odds with the "full spirit" of the Code.
  
11. All of these features (except those in *italics*) are properly allegations of 'distortion' (i.e. without 'inaccurate' facts or 'misleading' as to specific facts, that the overall impression is a distortion, i.e.:

*"a statement or series of statements that, when a publication is read and considered in its entirety, bear(s) for the ordinary and reasonable FT reader in possession of important relevant facts pertaining to the particular matter in question and in-existence and available pre-publication, a meaning that significantly and insupportably twists or misrepresents the true position or state of affairs"*
  
12. This is a very high test, whether in an opinion piece or a news item or a feature article. It is akin to *Wednesbury* unreasonableness on the part of the editorial staff of the FT, that they have arranged true facts in such a way as to significantly and insupportably twist or misrepresent the true state of affairs.
  
13. Plenty of articles in the FT will be disagreed with by readers, plenty will discuss heated disputes between committed camps of partisans who can scarcely believe that anyone (let alone journalists) could possibly see that dispute in the opposite way to them. That is normal. The FT is editorially free to take a side, marginally or fully, as it sees fit: it is not subject to the sorts of 'fairness' requirements that are imposed on broadcasters by

OfCom. It is free to be slanted if it wishes. Clause 1 on distortion is a very long backstop: it prevents only a view so incompatible with the truth that no reasonable editor or reader could hold that view if they knew the relevant facts.

14. In the present case, the complaint falls very far short of demonstrating such a distortion. Taken separately:

- a. The failure to investigate or report 609 comments (some of which were anonymous) on a litigation funding website is not an omission so relevant that it changes the story. It simply demonstrates that there are people who support the Dean, and consider he has been wronged. The Article includes many mentions of the Dean's "supporters": the internet comments add nothing.
- b. The Article is free to be slanted. I do not agree that it is anything like as slanted as the Complainant suggests: in fact, when I first read it (in advance of the complaint) I do not remember thinking it particularly took one side or the other. I do not think the Article's recounting of the relevant facts reflects particularly well on the College.
- c. There are unattributed comments adverse to the Dean: there are also unattributed comments adverse to the College and supportive of the Dean. This is not the Adjudication to opine on the justifications for lack of attribution: the issue raised is one of fairness and balance, but having to rise to the level of 'distortion' under Clause 1. I do not think the overall impression created, in the context of the Article as a whole, produces any such distortion.
- d. The initial dispute appears to have arisen over the Dean seeking to change his terms and conditions with the College salaries board. There is no validity that giving that issue (and the subsequent sums spent by the College in the litigation) prominence. This is no basis whatsoever for alleging distortion. In fact, had it been *omitted* that might have been misleading. The scale of prominence is eminently a matter for editorial discretion.
- e. I have addressed the matter of titles and styles above. In circumstances where the individual is correctly identified and their role is made clear, the absence of particular styles and/or titles is not capable of giving rise to distortion.

- f. Has the FT been a conduit for enemies of the Dean? Insofar as it publishes their view, then no doubt, but they are given fairly equal billing with those highly critical of the College on the Dean's behalf (including two of the three letters published by the FT in response, according to the links now at the foot of the Article). The Complainant's case is *premised* on the Article being highly (and inappropriately) one-sided. While the FT is permitted to write a one-sided Article, in this case I simply do not consider it has done so, and certainly not outside of the wide margins of appreciation it rightly enjoys.
- g. The Complainant is entitled to his criticisms of the Article, but nothing I have considered gives me reason to think that this Article is in breach of Clause 1 of the IPSO Code. Nothing in Articles 1.2 or 4.12 of the FT Editorial Code (insofar as they affect the construction of Clause 1), nor the requirement to abide by the "full spirit" as well as the "letter" of the Code, changes that conclusion.
15. In summary, I see no basis for finding any breach of Clause 1 of the IPSO Code, or any associated Article of the FT Editorial Code of Practice. This is not a case where it would be appropriate to second-guess the editorial judgments made: the Article as published was very comfortably within the generous discretion afforded to editorial.
16. I nonetheless would like to thank the Complainant for his courtesy and patience: he demonstrated both a vigour for his case, and decency in making it, which I would delight in finding in all of my cases. Notwithstanding his disappointment at the outcome of this Adjudication, I hope he will remain a reader and correspondent of the *Financial Times* newspaper, and continue to hold it to account.

**GREG CALLUS**  
**Editorial Complaints Commissioner**  
***Financial Times***  
**7 February 2020**