

Payment to criminals

THE CODE takes a tough line on payment to criminals. Clause 16 lays down two key principles:

First, payment or the offer of payment must never be made to a criminal – even indirectly via an agent or friends and family – if the story would exploit a particular crime, or would glorify or glamorise crime in general;

Second, an editor claiming the payment was made in the public interest would need to demonstrate there was good reason to believe this was the case – whether or not a story was published. Of course, IPSO would judge whether that belief was well-founded.

So payments to criminals are not absolutely banned by the Code and do not always have to be justified by the public interest. The nature of the story is crucial. If it does not exploit a crime, or glorify or glamorise crime, it would not be a breach of the Code. That takes into account that criminals can reform, their convictions can be spent and a lifetime ban would be unfair and might be a breach of their human rights.

The public interest defence will inevitably loom large in complaints about payment to criminals. The PCC said:

WHAT THE CODE SAYS

- i) Payment or offers of payment for stories, pictures or information, which seek to exploit a particular crime or to glorify or glamorise crime in general, must not be made directly or via agents to convicted or confessed criminals or to their associates – who may include family, friends and colleagues.
- ii) Editors invoking the public interest to justify payment or offers would need to demonstrate that there was good reason to believe the public interest would be served. If, despite payment, no public interest emerged, then the material should not be published.

A public interest exemption may be available. [See Page 120.](#)

“While the Code is not designed to stop criminals being paid for their stories in all circumstances, it is designed to stop newspapers making payments for stories about crimes which do not contain a public interest element. Indeed, the philosophy of the Code is that a payment aggravates the case where there is no public interest, because the

glorification of the crime is more of an affront if it is done for gain.

“The principle behind this is, of course, that it is wrong to glorify crime, not necessarily to write about it: there will be occasions on which the public has a right to know about events relating to a crime or criminals. The key to the Code is, therefore, public interest.”

www.pcc.org.uk/cases/adjudicated.html?article=MTg4NA

IPSO will ask key questions when investigating a complaint about a payment to a criminal:

- Did the article glorify or glamorise crime?
- Did the article allow a criminal or an associate to exploit a particular crime?
- Was there any profit or direct financial benefit for the criminal involved, or their associate?

If so:

- Before agreeing to a payment, why did the editor consider there was good reason to believe this would result in the publication of information in the public interest?
- How was the public interest served by the material published?
- Was any new information made available to the public as a result?
- Was payment necessary? Could the information have been obtained by other means?

The magazine *That's Life* was found to have breached Clause 16 when it paid the sister of a murderer for a story about the killing. The magazine maintained that it viewed

the sister as a victim of crime who had not sought to glorify or glamorise his crime.

The PCC did not agree that she was a “victim”. As an immediate member of the murderer’s family, she was clearly an associate as defined by Clause 16. The PCC said: “This was a clear instance in which a crime has been exploited in breach of Clause 16.”

Ms Treena McIntyre v That's Life:

www.pcc.org.uk/cases/adjudicated.html?article=ODM2MA

The Guardian was the subject of a complaint over a comment piece written by disgraced politician Chris Huhne, who was jailed for perverting the course of justice and who was under contract to write for the paper.

The column was about the conviction of Constance Briscoe, a barrister and former recorder, for attempting to pervert the course of justice during the investigation of the politician’s offence.

The PCC said the difficult question was whether the article exploited his crime and, if so, whether it fell foul of Clause 16’s aim, which was to prevent criminals from profiting from their crimes. The PCC said that while the article discussed Mr Huhne’s experiences, it did not focus on his crime.

The PCC said that, on balance, a distinction should be drawn between legitimate comment on issues of broader societal importance, albeit with a connection to an individual’s crime, and material that was limited to details of a crime.

It concluded that the article did not constitute exploitation of Mr Huhne's crime and there was no breach of the Code.

www.pcc.org.uk/cases/adjudicated.html?article=OTA2Mg

A magazine faced a complaint under Clause 16 when it paid a journalist to write about their personal experiences in the underground party scene that sprang up in contravention of Coronavirus legislation.

The article was a series of extracts from the diary of an anonymous "prohibition partygoer", detailing their social life when "social gatherings were banned".

The publication said it did not consider the writer to be either a convicted or confessed criminal: they had not been issued with a fixed penalty notice, and even in circumstances where a fixed penalty had been issued and paid, no criminal conviction or record would have resulted.

IPSO considered Clause 16 in relation to the letter of the Code as well as the spirit.

To establish a breach of the clause, IPSO had to be satisfied that: payment had been made for the story; the story exploited, glorified or glamorised a crime; and the recipient of the payment was – or was an associate of – a confessed or convicted criminal.

There was no question that payment had been made by the publication to the journalist for this article, and that the article detailed behaviour which the journalist suggested in the article would contravene Coronavirus legislation. There was some ambiguity, however, as to whether behaviour said to be in contravention of these regulations amounted

to a crime, and therefore whether the journalist could be considered a "confessed criminal" under the terms of Clause 16.

IPSO did not consider that the journalist could be considered a "confessed criminal" in the sense intended by Clause 16. Further, in light of this ambiguity, IPSO did not consider that the article necessarily amounted to glorification of "a crime". For these reasons, it found no breach of Clause 16.

[IPSO v Tatler](#)

www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01348-21