

## **COMPLAINT ADJUDICATION**

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**Mr Tom Watson**

**and**

**The SKWAWKBOX**

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### **Clause 5. Harassment**

**5.1. Publishers must ensure that journalists do not engage in intimidation**

### **Clause 7. Privacy**

**7.1. Except where justified by the public interest, publishers must respect people's reasonable expectation of privacy. Such an expectation may be determined by factors that include, but are not limited to, the following:**

- a) The nature of the information concerned, such as whether it related to intimate, family, health or medical matters or personal finances;**
- b) The nature of the place concerned, such as a home, school or hospital;**
- c) How the information concerned was held or communicated, such as in private correspondence or a personal diary;**
- d) The relevant attributes of the person, such as their age, occupation or public profile; and**
- e) Whether the person had voluntarily courted publicity on a relevant aspect of their private life.**

### **Complaint Dismissed**

**No breach of Code**

**Before IMPRESS Regulatory Committee A**

**Walter Merricks (Chair), Andrea Wills, David Leigh and Emma Jones**

**3 May 2019**

## 1. Summary of Complaint

- 1.1. The Complainant is Tom Watson MP, Deputy Leader of the Labour Party, an individual directly affected by the alleged breach of the Code.
- 1.2. The Respondent is The SKWAWKBOX, a news website covering current affairs that has been regulated by IMPRESS since 1 October 2017
- 1.3. The complaint concerns an article that first appeared in The SKWAWKBOX on 11 March 2019 with the *headline* “*Watson’s party within party form should NOT be used to let him know what you think*”.
- 1.4. The complaint is assessed against the IMPRESS Standards Code. The relevant clauses are:

*Clause 5 (Harassment)*

*5.1. Publishers must ensure that journalists do not engage in intimidation.*

*Clause 5 (Privacy)*

*7.1. Except where justified by the public interest, publishers must respect people’s reasonable expectation of privacy. Such an expectation may be determined by factors that include, but are not limited to, the following:*

- a) The nature of the information concerned, such as whether it relates to intimate, family, health or medical matters or personal finances;*
- b) The nature of the place concerned, such as a home, school or hospital;*
- c) How the information concerned was held or communicated, such as in private correspondence or a personal diary;*
- d) The relevant attributes of the person, such as their age, occupation or public profile; and*
- e) Whether the person had voluntarily courted publicity on a relevant aspect of their private life.*

## 2. Background

- 2.1. The subject of the article was the distribution of a sign-up form for MPs to express their interest in Mr Tom Watson’s ‘Future Britain’ group; the form had

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been leaked and was 'already circulating on social media'. The article featured an image of the form that displayed Mr Watson's public number and an 'office mobile' number.

- 2.2. The Publisher later redacted the 'office mobile' number from the article. The article was then deleted on 12 March 2019, the day after it was published.
- 2.3. The Complainant contacted The SKWAWKBOX on 20 March 2019 and made a complaint, requesting an apology.

### **3. The Complaint**

- 3.1. The complaint concerns the publication of the image of the form without redacting the office mobile phone number. The Complainant argues that publication of the 'office mobile' together with the language and tone used by the Publisher amounted to breaches of the Harassment and Privacy Clause. The SKWAWKBOX dismissed the complaint and informed the Complainant that he could escalate his complaint to IMPRESS.
- 3.2. A full copy of the parties' correspondence was provided to the Regulatory Committee.
- 3.3. The Complainant subsequently made a complaint to IMPRESS, and after seeking clarification of the basis for the complaint, IMPRESS confirmed the substance of the complaint with him as follows, a full copy of which was provided to the Committee.
- 3.4. The Complainant considers that there was a breach of Clause 5.1. as he believed that the Publisher had engaged in harassment. He argued that the tone and language used encouraged readers to pursue him with unsolicited calls and messages.
- 3.5. The IMPRESS code does not define harassment except by reference to intimidation which is intended to apply most often to a journalist's personal pursuit of an individual. The Complainant argues that the Publisher used its platform to actively incite readers to contact his office. This resulted, he said, in the owner of the mobile being inundated with calls and abusive messages, resulting in the Complainant feeling harassed.
- 3.6. The Complainant argued that the Publisher drew attention to the numbers and sarcastically told readers 'not to use them'. He states that the Publisher

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knew that it was unacceptable to encourage the use of these phone numbers to contact the Complainant and that is why the language of the article was cloaked in irony and sarcasm. This was supported by the fact the Publisher pointed to the phone number and published them clearly. The Complainant maintained that the use of sarcasm did not nullify the effect of the conduct in this instance. The Complainant says that if the Publisher had not wanted readers to contact him then it would not have published the numbers.

3.7. The relevant statements from the article are:

*“Tom Watson’s form for enrolling MPs and peers contains his ‘office mobile’. Do not abuse it.”*

*“There has been some chatter among Labour activists of using these details to tell Watson some home truths. But Labour members absolutely should not use any of the details carelessly leaked to send Tom Watson any tips or thoughts about his role in the party.*

*The deputy leader is a busy man and such a waste of his precious time would be unconscionable, even though his sharing of such details at a meeting where many had surely only turned up for fun or to keep an eye on proceedings can only be considered inexcusably reckless.*

*The SKWAWKBOX therefore appeals to readers to please ignore such details and forget you ever saw them – and do not share them, even though as a non-personal number already in wide circulation it would not constitute ‘doxxing’.*”

3.8. The Complainant says that the mobile was called approximately 30 times by different unknown numbers between the evening of 11 March (when the article was first published) and early morning of 12 March, when the mobile number was redacted from the article. Furthermore, the number received several text messages, copies of which were provided to the Regulatory Committee.

3.9. Regarding Clause 7.1, the Complainant does not accept that the Publisher respected his reasonable expectation of privacy. He asserts that the publication of the mobile number was a breach of his privacy as he considers this to be private information.

3.10. Furthermore, the Complainant complains that the Publisher’s decision to incite its readers to contact him interfered with the Complainant’s privacy.

3.11. The Complainant states that he understood that the form which contained the mobile number may have been in the public domain, via social media.

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However, the Complainant argues that the number was not generally well known and was distributed to a wider audience through its publication on The SKWAWKBOX. The relevant statement is:

*“The document – already circulating on social media – makes perfectly clear....”*

- 3.12. The Complainant does not know if the form was published in full by other publishers, however, when published by another journalist, whom he named, the relevant office mobile number was redacted by that journalist.
- 3.13. IMPRESS provided the Complainant with The SKWAWKBOX's response (included in Section 4 below) and gave the Complainant the opportunity to provide a final reply to that response.

#### **4. Response of Publication**

4.1. IMPRESS invited The SKWAWKBOX to provide additional information in response to the Complaint. The Publisher's response is summarised below.

4.2. Regarding Clause 5.1, the Publisher says that the article specifically told readers not to contact the Complainant. The Publisher states that there was chatter amongst left activists about using the number to bombard the Complainant with comments and that the article called on activists, in straightforward language, not to do so. Furthermore, the Publisher asserts that the language used was perfectly straightforward:

*“But Labour members absolutely should not use any of the details carelessly leaked to send Tom Watson any tips or thoughts about his role in the party”*

4.3. The Publisher does not accept that the article invited members of the public to contact the Complainant. Further, the Publisher does not accept that the evidence suggests that calls and messages that were received resulted from the publication of the article. Moreover, the image containing the mobile number was published at 20:32 on Monday 11 March and replaced at 22:20 the same day, within a couple of hours of publication, thereby removing the number. The article was deleted the next morning, 12 March, at approximately 7:00 am.

4.4. Furthermore, the Publisher does not accept that printing the article amounted to intimidatory behaviour. It asserts that members of the public are entitled to contact their representatives, and therefore reasonably, Labour members should be entitled to contact the party's deputy leader to express their views.

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The Publisher added that the Complainant had previously blocked twitter followers who disagreed with him. The Publisher therefore argues that using the numbers described in the form as 'office' numbers would be a valid form of contact for members and supporters of the party.

- 4.5. Regarding Clause 7.1., the Publisher states that the Complainant circulated printed copies of the form to approximately 70 people. Moreover, the form did not indicate that the contents of it were confidential.
- 4.6. The Publisher does not consider the Code is breached, firstly, because the form described the mobile number as an 'office mobile'; and that description was taken in good faith. Secondly, the number had already been widely circulated by third parties, via social media, before the Publisher's article was published, and therefore the number was no longer private. Finally, the Publisher argues that most of the information listed in the form is available on the Parliament website.
- 4.7. Regarding the second point, the Publisher says that the unedited form was widely circulated on social media by third parties before the SKWAWKBOX article was published. The Publisher states that the form was shared on Twitter by the LabourLeft account, which has almost 45,000 followers. The LabourLeft tweet was subsequently deleted, however it had already been retweeted hundreds of times, exposing it to tens of thousands of people. The Publisher stated that it could not provide evidence of this, however, because it was contacted by the Complainant after the LabourLeft tweet had been deleted.
- 4.8. As a final point, the Publisher argues that the fact that the Complainant is not only an elected representative but the deputy leader of the Labour party is an important factor that impacts on the Complainant's reasonable expectation of privacy and that because the form concerned a political matter, the Privacy Code Clause was not breached. For these reasons, the Publisher does not accept that the Complainant had a reasonable expectation of privacy in the information contained in the form.
- 4.9. If the Committee were to decide there was a breach of the Privacy Clause, the Publisher argues that there would be a public interest justification for publishing the article. The Publisher claims that there is a clear public interest in the availability of the Complainant's contact information. It asserts that those elected to public office, even local councillors, are expected to have their contact details in the public domain. Therefore, the Complainant should be seen as accountable as both an elected MP and the deputy leader elected by

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party members; the Publisher argues that such accountability is an expected part of being an elected official. Furthermore, the Publisher claims that the Complainant routinely blocks members of the public on Twitter, who challenge him; in doing so, the Complainant was trying to make himself unaccountable to those who elected him and members were entitled to use alternative contact methods to reach him.

- 4.10. The Publisher's case is that the Complainant often behaves in a manner that outrages a large part of Labour's membership and materially impacts on the public perception of the party. The Publisher argues that the Complainant attempts to distance himself from accountability and to ignore the views of those who elected him; this would therefore make the Complainant's self-published contact information a matter of public interest.
- 4.11. The Publisher noted the nature of how the form was shared. The Publisher argues that, not only does this touch on the 'expectation of privacy' issue, but, shows that a senior elected official was being cavalier with information, which was in and of itself a matter of public interest.
- 4.12. A full copy of the Publisher's response and further comments were considered by the Regulatory Committee in determining the outcome of the complaint.

## **5. Compliance with the IMPRESS Regulatory Scheme**

- 5.1. IMPRESS is satisfied that the SKWAWKBOX complied with the requirements of the IMPRESS Regulatory Scheme (Paragraph 3.2) by issuing a final decision letter within 21 calendar days, and by informing the Complainant of his right to refer the complaint to IMPRESS.
- 5.2. However, IMPRESS does not approve of the fact that the SKWAWKBOX used the opportunity of the receipt of the Complaint to seek to make separate, argumentative, points to the Complainant in his political capacity in the first and last sentence of its response. IMPRESS Members are reminded that it is important that complainants are not deterred from making complaints by such conduct, and that complaints are dealt with in good faith and in a straightforward manner.

## **6. The Committee's Conclusion**

Clause 5 - Harassment

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- 6.1. The Committee noted the Publisher's arguments, initially made, that the article specifically told readers not to contact the Complainant. The Committee did not agree with the view that the language used was straightforward or would be understood as literal in meaning. Instead, it considered that an ordinary reasonable reader would have understood that the purpose of the article was to encourage readers to contact the Complainant. While the article, read literally stated not to contact the Complainant, the true meaning was to encourage or suggest such contact. The Publisher is advised to be more straightforward about the meaning of sarcastic language when responding to complaints in the future.
- 6.2. The Harassment clause of the Code is intended to cover a pattern of behaviour involving intimidating, threatening or abusive journalistic and newsgathering activity. The Committee did not consider that the Publisher's conduct nor the article as published went so far as to engage the Harassment Clause. Rather, as part of ordinary political discourse, it was legitimate for someone to contact a senior public figure and member of parliament to put forward their views. Furthermore, the sign-up form itself was an invitation for views and support of a political position. By merely encouraging readers to contact the Complainant, the Committee did not consider the Publisher went so far as to encourage readers to abuse, threaten or intimidate the Complainant. As a result, the Committee considered that in these circumstances the Publisher did not breach Code Clause 5.1.

## Clause 7 - Privacy

- 6.3. The Committee noted that the Complainant felt that the contact information provided on the form was private information, as he believed the information had not been widely circulated prior to the publication of the article. Furthermore, the Committee noted that the article referred to the form as being 'leaked', implying that the information had not previously been in the public domain. However, the sign-up form did not refer to the information on it as private or confidential. Instead, the contact number was referred to as an "office mobile", which the Committee considered would be regarded as a public facing contact point by the ordinary reasonable person. Furthermore, the Committee understood that the sign-up form was circulated to other MPs by the Complainant in his capacity as a politician. The information was therefore not exchanged by the Complainant in a private capacity but rather in his capacity as a public figure. Therefore, the Committee did not consider, in this instance, that the Complainant had a reasonable expectation of privacy in the published information and therefore there could be no breach of Clause

7.1, irrespective of whether the article was redacted and then deleted, as it was in this case.