

Commission's decision in the case of University of East Anglia v The Daily Telegraph

The complainants, acting on behalf of the University of East Anglia (UEA), complained that three blog posts by James Delingpole were inaccurate and misleading and contained distorted information in breach of Clause 1 (Accuracy) of the Editors' Code. In particular, the complainants were concerned that the blog posts described Professor Phil Jones as "disgraced, FOI-breaching, email-deleting, scientific-method abusing". They explained that Professor Phil Jones had been exonerated of any dishonesty or scientific malpractice by a series of reviews. They were concerned that a second blog post repeated accusations that had been demonstrated as untrue, concluding that the University's scientists were "untrustworthy, unreliable and entirely unfit to write the kind of reports on which governments around the world make their economic and environmental decisions", and a third blog post referred to the scientists' work as "shoddy" and "mendacious".

The Commission emphasised that the articles in question were blog posts and were clearly identifiable as such to readers generally, as they were posited in the 'Telegraph Blogs' section of the website and written under the columnist's prominent by-line. The Commission was satisfied that readers would be aware that the comments therein represented the columnist's own robust views of the matters in question. Clause 1 (Accuracy) of the Editors' Code permits the publication of such comment provided it is clearly distinguished from fact and does not contain significantly inaccurate, misleading or distorted information. The Commission has previously ruled [North v The Guardian] that "In the realm of blogging (especially in cases touching upon controversial topics such as climate change), there is likely to be strong and fervent disagreement, with writers making use of emotive terms and strident rhetoric. This is a necessary consequence of free speech. The Commission felt that it should be slow to intervene in this, unless there is evidence of factual inaccuracy or misleading statement."

Through its correspondence the newspaper had provided some evidence in support of the statements under dispute, and the columnist had included some of this evidence in the second blog post under discussion. In relation to the columnist's description of Professor Jones as "FOI-breaching, email-deleting", the newspaper had provided extracts from an email from Professor Jones in which he had written "If they ever hear there is a Freedom of Information Act now in the UK, I think I'll delete the file rather than send to anyone", and another email in which he had written "Can you delete any emails you may have had with Keith re AR4?". With respect to the columnist's assertion that Professor Jones was "scientific method-abusing", the newspaper had provided an extract from an email from Professor Jones in which he had written "I've just completed Mike's Nature trick of adding in the real temps to each series for the last 20 years (ie from 1981 onwards) and from 1961 for Keith's to hide the decline". In view of this, the Commission considered that there were some grounds for the columnist's opinion – which readers would recognise was subjective – on these points.

The complainants emphasised that Professor Phil Jones and the other scientists discussed in the blog post had been cleared by a number of independent reviews. The Commission noted that the columnist had referred to these reviews, and that readers would therefore have been aware that they had taken place. In the first blog post complained of the columnist had referred to "unconvincing attempts to clear

the Climategate scientists", and noted that one scientist, Mike Hulme, had "managed to emerge from the Climategate scandal smelling of violets". He had also noted in the first blog post that Professor Jones had granted interviews "presenting himself as a man far more sinned against than sinning". The columnist in the second blog post complained of had expanded on his comments and made clear that the scientists had "apparently... been 'exonerated and cleared of all malpractice by a series of independent reviews'", although he made clear that he did not consider these reviews to have been "independent", citing a report by Andrew Montford which was critical of the reviews. While the complainants had expressed concern that the Montford report was "partisan", the Commission considered that the columnist was entitled to agree with the report.

The Commission was satisfied that readers would be aware of the context of the columnist's robust views – clearly recognisable as his subjective opinion – that the scientists were "untrustworthy, unreliable and entirely unfit to write the kind of reports on which governments around the world make their economic and environmental decisions", and that their work was "shoddy" and "mendacious". In the circumstances, it did not consider that there had been a breach of Clause 1 (Accuracy) of the Code. The Commission noted that the newspaper had offered the complainants an opportunity to respond on the blog post. It considered that this would inform readers of the full context of the dispute and the complainants' position. The Commission welcomed this offer, and hoped it would remain open to the complainants.