

The Leveson Inquiry

Third Witness Statement of Martin Clarke

1. My full name is Martin Peter Clarke. I have been in charge of Mail Online editorial since 2006. I was appointed Publisher in 2010. My career is set out in full in my first witness statement to the Inquiry dated 1st March 2012.
2. The purpose of this witness statement is to address the questions put to me by the Inquiry in the S.21 Notice dated 2nd July 2012.
3. I am asked by the Inquiry to expand upon paragraph 56 of my witness statement to explain Mail Online's approach to publishing stories about pregnancy, miscarriage and the approach to be taken when there are suspicions or rumours about these matters.
4. Editorial policies and ethics are governed by the Editor's Code of Practice, the law and additional internal policy decisions made by the Editor in Chief. These policies and the law are applied by Mail Online with the benefit of legal advice and in accordance with adjudications and Guidance notes issued by the PCC from time to time.
5. The adjudications issued by the PCC in relation to reports of pregnancy or rumours of pregnancy have made it clear that (1) "There are limits on what can be said about celebrities, even though they are constantly in the public eye. Pregnancy, even for non-public figures, can rarely be kept secret for long, but the PCC has ruled that early speculation on whether someone is expecting a baby can be intrusive"; (2) "The press should not reveal *the fact* of someone's pregnancy before the 12 week scan without

consent *and when the information is not known to any significant degree*. This is because of the risk of complications or miscarriages, and because it should be down to the mother to share the news with her family and friends at an early stage.” (Adjudications *Riding v The Independent* 31/07/06; *Charlotte Church v The Sun* 03/05/07; *Minogue v Daily Record and Mirror* 28/01/10). The qualification “and when the information is not known to any significant degree” reflects the principle set out under the public interest provision in the Code that “The PCC will consider the extent to which material is already in the public domain”, and I referred in paragraph 56 of my first witness statement to my decision not to publish the news of Sienna Miller's pregnancy for several hours, notwithstanding that it was being published on US websites, until it was confirmed by her sister tweeting her congratulations. (The BBC Editorial guidelines and Ofcom Broadcasting Code also adopt the principle of taking account of the extent to which the material is already in the public domain.)

6. The PCC have made it clear in adjudications that where a newspaper reports *rumours* of pregnancy, it will need to show evidence of rumours and not use this as a device “to circumvent the privacy provisions of the Code by presenting the story as speculation” (Adjudication *Charlotte Church v The Sun* 03/05/07).
7. I have explained above Mail Online's approach to reporting the fact of a pregnancy. If speculation as to whether a woman is pregnant is reported by reputable and previously reliable newspaper or magazine websites, that speculation will be considered for publication by Mail Online, as speculation. The considerations as to whether to publish speculation or rumours that a woman is pregnant include whether the speculation or rumours are to the effect that the woman is in the early stages of pregnancy, the nature of the woman's relationship with the media and the potential harm, and to what extent

the rumours or speculation have been previously published, particularly where the parents and their family live. This is consistent with the PCC's adjudications on this issue.

8. The Inquiry refer me to four articles published by Mail Online which have been drawn to its attention. I assume that it is being suggested that these articles conflict with my evidence to the Inquiry and or that they are published in breach of the Editors' Code of Practice. Neither assertion is correct. My comments are as follows:

a. Gisele Bundchen

The article in Mail Online referred to rumours that Gisele, the Brazilian model who lives in the US, is expecting a second baby with her husband, Tom Brady, the New England Patriots quarterback. As speculation that Gisele was pregnant with her second child had previously been published widely by other reputable news organisations including Us Weekly magazine, the New York Daily News, the Huffington Post, Telegraph.co.uk, Vogue.co.uk (the online version of British Vogue magazine), Brazilian newspaper Epoca and other Brazilian media from mid-May onwards, the publication by Mail Online is in accordance with guidance from the PCC's adjudications referred to above.

b. Khloe Kardashian

Khloe is a reality TV star. She is married to NBA player Lamar Odom and lives in the US. The Mail Online article referred to "'It's NOT true' Khloe Kardashian hits back at claims she suffered a heartbreaking miscarriage" was published for the following reasons. An American celebrity magazine, In Touch Weekly, published a front page story claiming that Khloe Kardashian had had a miscarriage. Our journalist in Los Angeles, Natalie Trombetta, contacted Khloe's press representative who was happy to go on the record and encouraged us to set the record straight. A copy of the email exchange between Natalie and Pearl Zervat is attached to this witness statement. Khloe in fact also tweeted the same day at

11.41am (UST) to her 7 million followers on Twitter that the story was untrue and that she had not had a miscarriage. There is therefore no breach of the PCC's code or Guidance in relation to this article. The same approach identified in paragraph 5 above to stories about pregnancies applies to stories about miscarriages, which is obviously information concerning a woman's health and protected under Clause 3(i) of the Code.

c. Rachael Zoe

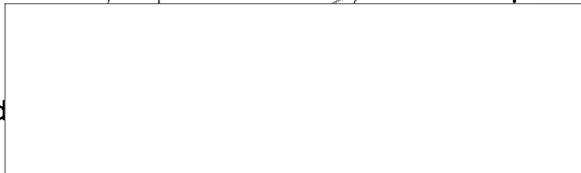
Rachael Zoe is a celebrity stylist, publisher of the website and newsletter 'The Zoe Report' and star of the reality TV show 'The Rachel Zoe Project', which follows her and her family's daily life. She lives in the US. Rumours of Rachel Zoe's pregnancy were published by a celebrity website in the US. Subsequently, Mail Online published an article repeating the rumours (and attributing them to the relevant US website), but not reporting the pregnancy as fact. This is the distinction drawn by the PCC in its adjudication and publication is therefore in accordance with the Code and the PCC's guidance.

d. Drew Barrymore

Rumours of Drew Barrymore's pregnancy had been widely published prior to publication of this article by Mail Online in May, by which time the pregnancy was clearly apparent in photographs. Speculation as to whether Drew was pregnant with her first child was in fact first published on US websites in mid-February 2012 and has been published extensively since then. As before, the article therefore complies with the Code and Guidance from the PCC.

9. None of the women concerned have complained about the articles referred to above.

Signed



Date 18/7/12