

Note of PPS Disciplinary Hearing - Rory Mackinnon

3 April 2014

Present:

Rory Mackinnon

(Union rep)

Tony Briscoe (Presenting the charges)

Richard Bagley (Chair)

Chris Guiton (Note taker)

Richard Bagley (RB): Welcome, everyone, to the meeting. Its purpose is to establish the facts about the case (set out in Tony Briscoe's e-mail to Rory Mackinnon of 31 March 2014) and consider whether this might lead to a formal disciplinary punishment.

Rory Mackinnon (RM): Is it alright if I make an audio recording of the hearing?

Tony Briscoe (TB): The procedures applied at this hearing were agreed with trade unions over ten years ago and I do not want to vary them now.

RB: On reflection, it is OK for you to record the hearing, provided the recording is not misused in any way and we receive a copy as soon as possible after the hearing.

RB: You have seen the charges, which have the potential to lead to your dismissal. Today is an opportunity to conduct a fair hearing of the events which may lead to further action. Tony will put the charges, you will have an opportunity to challenge those charges and I will be asking some questions for clarification.

TB: Let's establish the facts. We've already had an initial conversation. I asked you how long you had worked for the Morning Star, about your previous journalistic experience. You said you have worked for the Star for 3 years, and as a journalist since 2005 – you had a New Zealand Parliamentary Press Gallery pass. I asked how you found out about the RMT Women's conference and you said it was from their website, and whether you knew it was a closed conference. You explained that you had asked to attend by email, had been to previous conferences of this type and had introduced yourself to Jessica Webb. We have a video of the day's proceedings, where I propose we watch the relevant segment.

[An excerpt of the recording was shown to the hearing, featuring Alan Pottage's presentation, the conference Chair asking for questions from the floor, RM asking his question about the Hedley/Lenaghan investigation and Alan Pottage's response]

TB: I have some questions for you. The content of Alan Pottage's address is common ground. He spoke about his personal history, about an incident at the 1991 conference and gave an example of workplace harassment, of women by a woman personnel officer?

RM: Yes

TB: I counted on the film – the Chair asked for questions, there was a gap of about 10 seconds and then you put your hand up. But why did you ask the question at all?

RM: It seemed relevant in the context of the discussion, given issues around harassment and the hostile environment for women in the workplace.

TM: But why did you ask any question?

RM: Because the Chair asked for questions.

TB: Let me expand here. This was a delegate-based RMT Women's conference.

RM: My responsibility is to get stories for the paper.

TB: But does that mean asking questions at events like this?

RM: Again, the Chair had sought questions from the floor.

TB: Let me stress. This was a delegate-based conference. In those circumstances, how do you see your role as a reporter?

RM: My job is to ask questions. I wasn't told not to ask questions.

TB: Have you asked questions before at delegate-based conferences?

RM: Not that I can recall. I've always had a good relationship with trade unions. I have attended previous conferences of a similar type, where delegates have been invited to share stories with me. I saw nothing inappropriate in my actions.

TB: You asked a specific question about domestic abuse. When did you last hear about the Leneghan/Hedley case?

RM: Some time ago.

TB: Did you discuss the case with anyone else?

RM: No. I had it in mind for a while beforehand to ask the question, but I didn't discuss it with anyone else

TB: Did you discuss the case with your line manager?

RM: No – this is not standard practice.

TB: On the first charge, about breaking the trust expected of you as a Morning Star reporter, you were aware that the Hedley issue had been raised.

RM: Yes.

TB: Why did you see it as your role to ask this question?

RM: I didn't see anything in the agenda for this meeting about covering the subject matter of the event.

TB: We'll come back to that later. For now, we are looking at your behaviour and considering all the facts. You were aware that there had been no developments about the issue. Why did you consider it appropriate to try to move it on?

RM: I'm not sure of the purpose of this question.

RB: We're trying to establish what you did.

TB: All matters are relevant here. You referred in your Tweet to there having been 'no development' on the case since last April.

RM: I actually said, 'no public comment'.

RB: Agreed, this is covered by the documents.

TB: OK. Let's move on. Did the delegates enter the discussion?

RM: Yes, but they didn't discuss the subject matter of the question.

TB: What did you do later?

RM: After lunch, I went back to my seat. After 15 minutes I was approached and asked to leave.

TB: Where were you sat?

RM: At the back, on the aisle, with the AV desk on my left.

TB: As we know it wasn't Henderson and Smith who approached you, it was actually Dennis Connor and Jessica Webb.

RM: I accept that.

TB: OK. They asked you to leave and you asked 'why'?

RM: Jessica Webb asked me what newspaper I represented – she didn't think I was from the Morning Star. And told me I wasn't allowed to remain as it was closed to the press.

RM: I didn't understand this as I'd already had press approval. I asked if the decision was related to my question. This was categorically denied.

TB: So you leave. What happened next?

RM: I left the hotel and wrote a Tweet.

TB: Why?

RM: I thought it was my responsibility to inform the public of an attempt to suppress information in accordance with section 8 of the NUJ code of conduct.

RB: You need to show the documents cited in evidence.

RM: The NUJ code is well-understood. Under sections 1 and 8 we have a duty to inform the public of issues we consider to be newsworthy. In that connection, it's not uncommon to use social media.

TB: In your first Tweet you said you'd been ejected. Do you not think this already risked damaging the relationship with the RMT?

RM: No.

TB: Did you take advice from your line manager before going public on Twitter?

RM: No. I didn't make an attribution in my Tweet. It was a factual statement. I wasn't editorialising.

TB: You made further Tweets. Why – because of the response to your question?

RM: It was nothing to do with the question. It was a reasonable to draw the inference that my ejection was due to the question.

? **TB:** I can't comment on journalistic standards but I wonder whether a Morning Star reporter would expect to behave in this manner?

RM: I have no idea.

TB: Why didn't you take the Tweets down once you had been suspended?

RM: I considered it best not to destroy evidence. But I did so on Monday as soon as I realised that it was relevant to the charges.

RB: Let's now move to the opportunity for RM to challenge the charges.

UNION REP. **TB:** I see no discrepancies as to what happened at a factual level. With regards to the particular charges:

1) Rory behaved properly throughout. He didn't make a fuss on his ejection or behave violently. No trust was broken.

2) We can't see any evidence for the second charge

3) 'Etiquette' is not a defined 'thing'. We are not aware of any Morning Star code or policy broken here.

4) As evidence shows it is standard practice to use social media for journalistic purposes. We are not aware of a Morning Star policy in this area.

5) We have already covered this point. The suspension letter made no reference to the nature of the allegation. Rory has refrained from further comment. He deleted the Tweets when requested. There is no case to answer.

RB: To reiterate, the issue is about trust and confidence. Have you seen any impact arising from the Tweets in Scotland?

RM: That's a counter-factual question. I can't answer it as I have been suspended since then.

RB: You have three years' experience as a Morning Star journalist. Given the type of stories you've covered previously do you think the paper would have published a story on the issue you raised?

RM: I have asked similar questions in the past. In 2012 when there were differences between PCS and Unison on the pension issue in discussion with RB and Adrian Roberts (the then news editor) I was encouraged to report it fairly and objectively.

RB: I don't recall that specific conversation. However, that was an inter-union issue of national relevance not an internal union issue. Would you do the same thing again at a delegate-based conference?

RM: I would act with integrity. Given what I know now I wouldn't ask questions in future at a delegate-based conference.

RB: To clarify, when did you become aware of any further movement in the case?

RM: I heard an appeal was being pursued.

UNION REP. **TB:** it's on the grapevine that the issue is rumbling on, it hasn't gone away.

RB: So let's clarify the role of the Morning Star here: internal union matters are different from inter-union matters.

RM: I felt it was newsworthy and in the public interest, which related to the interests of the Morning Star.

RB: Your statement is comprehensive. Do you understand the difference between open, public events and closed events?

RM: This is a philosophical question, but I felt it my duty to report on the events I saw.

RB: You talked about 'intimidation'. Tell us more.

RM: Being approached in the way I was and having my credentials questioned added up to a cumulative feeling of intimidation.

RB: Why did you say it was Smith and Henderson?

RM: It's a bit embarrassing but I suffer from a slight face recognition problem.

RB: Final question. What do you think the impact on the Morning Star has been of your ejection from the RMT conference?

RM: I believe it remains in good standing with its readers as well as the RMT.

RB: Do you have anything else you wish to say?

RM: What I don't think has been addressed is specifically what action I've taken to damage Morning Star confidence in me or lead to a breach of trust.

TB: I'll make a submission. We've established the basic facts and sequence of events. Let's look at things from the vantage point of the 'prosecution'. Damage was done given your ejection from the conference. This is bad news for the Morning Star in terms of its reputation with RMT and other unions. We don't yet know the ramifications. Time will tell. The role of a Morning Star reporter is to progress the policies of the paper which includes building good relationships with trade unions. It should have occurred to you that raising this question would reopen the debate in public and you should have considered raising the matter with your line manager before asking the question. In a courtroom you would have been removed for asking a question. It's reasonable to expect that you report on proceedings, not intervene. Having been asked to leave, what should you have done next? You should have sought to limit the damage and contacted your line manager. It's debatable whether the NUJ code of conduct applies in a situation such as this and the fact you asked it raises a question about your approach. The question feels more like something a Daily Mail reporter would ask than someone from the Morning Star. You should have known better. This indicates a lack of journalistic etiquette and has damaged our relationship with the trade union movement. It is a reasonable inference that you shouldn't ask a question at an event of this type. And once suspended, you have should pulled the Tweets. I don't know what the future RMT response will be to this incident or how they'll respond to future requests to attend RMT conferences. We have to protect the Morning Star from that risk.

CW/DN/REP: Is it in order to challenge the summing up?

RB: Yes.

CW/DN/REP: Looking at the issues raised: there is no evidence that Rory's action has brought the Morning Star into disrepute. It's all speculative. Nothing has been proven. At no point was he told that he couldn't ask a question. He wasn't expelled immediately after asking the question. There is no Morning Star policy which sets out that you must seek advice from line managers before asking questions at conferences. Rory did seek to approach his line manager shortly after his ejection. We haven't seen any subsequent RMT reports so don't know how seriously they take the issue. The Daily Mail comparison isn't relevant. We only became aware on Monday of the allegations relating to the conference.

RM: The letter referred to a complaint, but didn't specify action related to the conference.

RB: The issue of the complaint had been covered in a phone call with Rory to confirm his suspension prior to a formal letter.

TB: If you look at the email attached to the letter it clearly refers to a phone call.

RM: I demonstrably refrained from making public comment. The failure to remove Tweets is not an active breach. And could have been seen as an obstruction of justice.

RB: Thank you. I need time to think about next steps and go through the information before me. I'll get back to you by the middle of next week at the latest.

[The hearing ended.]