

APPENDIX F

Text of the original editors' Code, December 1990
(extracted from "A Press Free and Responsible" by
Professor Richard Shannon)

ADJUDICATION

The Commission noted that the newspaper had neither sought to justify the article in the public interest or on the grounds of consent, nor denied that the article was intrusive. Its case appeared to rest on two contentions – that Ms Pirie's former fiancé was entitled to discuss their relationship publicly and in intimate detail and that Ms Pirie had openly discussed her private life to such an extent that she was disentitled to the protection of the Code.

The Commission, in considering this case, had two fundamental principles to bear in mind. First, the Commission has previously made clear that even when individuals do put matters concerning their private lives into the public domain – as public figures such as Ms Pirie are expected to do from time to time – the press cannot reasonably justify thereafter publishing articles on any subject concerning them. In reviewing the cuttings of interviews with Ms Pirie submitted by the newspaper the Commission could not find any examples of her discussing voluntarily such deeply personal matters as were contained in the newspaper's article. It did not consider that any of them demonstrated a collaboration with the press to publish very intimate material about her private life that forfeited her right to respect for privacy under the Code.

Second, the Commission must also have regard to freedom of expression and the public's right to be informed of matters of public interest. This may include cases where one side in an otherwise private relationship between two parties gives an account of that relationship. In such cases the Commission must consider whether one party's right to freedom of expression – something the Commission generally supports – outweighs the other's right to respect for privacy under the Code.

In seeking to balance these two factors, the Commission considered the extent to which the material was in the public domain. It noted that Ms Pirie had been happy to inform the public about the fact of her relationship with her former fiancé. It would not therefore have been unreasonable for him to have spoken publicly about his relationship with her. However, the Commission has already noted that the complainant had not volunteered the sort of highly personal information that was revealed in the article. Aside from the publication of general details about her previous relationships there was also little in previous articles about the detail of her private life. The newspaper had pointed to the fact that an article in another newspaper by a former boyfriend had been published without complaint. The Commission regretted that Ms Pirie had not complained about the article at the time and would urge individuals to complain to the Commission if they think that an article has invaded their privacy. However, it did not consider that Ms Pirie's failure for whatever reason to complain about this one article implied general consent for further intrusion.

The Commission was concerned about the absence of any proportionality between the subject matter of the article – which was extremely personal and devoid of any public interest – and the material that was already in the public domain about the relationship. In balancing privacy and freedom of expression the newspaper had – on this occasion – made the wrong decision. Ms Pirie deserved her right to privacy on such personal matters and nothing she had done had disentitled her to this.

APPENDIX*Codes of Practice, 1990 and 1999***CODE OF PRACTICE, DECEMBER 1990**

The Press Complaints Commission are charged with enforcing the following Code of Practice which was framed by the newspaper and periodical industry.

All members of the Press have a duty to maintain the highest professional and ethical standards. In doing so, they should have regard to the provisions of this Code of Practice and to safeguarding the public's right to know.

Editors are responsible for the actions of journalists employed by their publications. They should also satisfy themselves as far as possible that material accepted from non-staff members was obtained in accordance with this Code.

While recognising that this involves a substantial element of self-restraint by editors and journalists, it is designed to be acceptable in the context of a system of self-regulation. The Code applies in the spirit as well as in the letter.

1. Accuracy

- (i) Newspapers and periodicals should take care not to publish inaccurate, misleading or distorted material.
- (ii) Whenever it is recognised that a significant inaccuracy, misleading statement or distorted report has been published, it should be corrected promptly and with due prominence.
- (iii) An apology should be published whenever appropriate.
- (iv) A newspaper or periodical should always report fairly and accurately the outcome of an action for defamation to which it has been a party.

2. Opportunity to reply

A fair opportunity for reply to inaccuracies should be given to individuals or organisations when reasonably called for.

3. Comment, conjecture and fact

Newspapers, while free to be partisan, should distinguish clearly between comment, conjecture and fact.

4. *Privacy*

Intrusions and enquiries into an individual's private life without his or her consent are not generally acceptable and publication can only be justified when in the public interest. This would include:

- (i) Detecting or exposing crime or serious misdemeanour.
- (ii) Detecting or exposing seriously anti-social conduct.
- (iii) Protecting public health and safety.
- (iv) Preventing the public from being misled by some statement or action of that individual.

5. *Hospitals*

- (i) Journalists or photographers making enquiries at hospitals or similar institutions should identify themselves to a responsible official and obtain permission before entering non-public areas.
- (ii) The restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospital or similar institutions.

6. *Misrepresentation*

- (i) Journalists should not generally obtain or seek to obtain information or pictures through misrepresentation or subterfuge.
- (ii) Unless in the public interest, documents or photographs should be removed only with the express consent of the owner.
- (iii) Subterfuge can be justified only in the public interest and only when material cannot be obtained by any other means.

In all these clauses the public interest includes:

- (a) Detecting or exposing crime or serious misdemeanour.
- (b) Detecting or exposing anti-social conduct.
- (c) Protecting public health or safety.
- (d) Preventing the public being misled by some statement or action of an individual or organisation.

7. *Harassment*

- (i) Journalists should neither obtain information nor pictures through intimidation or harassment.
- (ii) Unless their enquiries are in the public interest, journalists should not photograph individuals on private property without their consent; should not persist in telephoning or questioning individuals after having been asked to desist; should not remain on their property after having been asked to leave and should not follow them.

The public interest would include:

- (a) Detecting or exposing crime or serious misdemeanour.
- (b) Detecting or exposing anti-social conduct.
- (c) Protecting public health and safety.
- (d) Preventing the public from being misled by some statement or action of that individual or organisation.

8. *Payment for articles*

- (i) Payments or offers of payment for stories, pictures or information should not be made to witnesses or potential witnesses in current criminal proceedings or to

people engaged in crime or to their associates except where the material concerned ought to be published in the public interest and the payment is necessary for this to be done.

The public interest will include:

- (a) Detecting or exposing crime or serious misdemeanour.
 - (b) Detecting or exposing anti-social conduct.
 - (c) Protecting public health and safety.
 - (d) Preventing the public from being misled by some statement or action of that individual or organisation.
- (ii) 'Associates' include family, friends, neighbours and colleagues.
 - (ii) Payments should not be made either directly or indirectly through agents.

9. *Intrusion into grief or shock*

In cases involving personal grief or shock, enquiries should be carried out and approaches made with sympathy and discretion.

10. *Innocent relatives and friends*

The Press should generally avoid identifying relatives or friends of persons convicted or accused of crime unless the reference to them is necessary for the full fair and accurate reporting of the crime or legal proceedings.

11. *Interviewing or photographing children*

- (i) Journalists should not normally interview or photograph children under the age of 16 on subjects involving the personal welfare of the child, in the absence of or without the consent of a parent or other adult who is responsible for the children.
- (ii) Children should not be approached or photographed while at school without the permission of the school authorities.

12. *Children in sex cases*

The Press should not, even where the law does not prohibit it, identify children under the age of 16 who are involved in cases concerning sexual offences, whether as victims, or as witnesses or defendants.

13. *Victims of crime*

The Press should not identify victims of sexual assault or publish material likely to contribute to such identification unless, by law, they are free to do so.

14. *Discrimination*

- (i) The Press should avoid prejudicial or pejorative reference to a person's race, colour, religion, sex or sexual orientation or to any physical or mental illness or handicap.
- (ii) It should avoid publishing details of a person's race, colour, religion, sex or sexual orientation, unless these are directly relevant to the story.

15. *Financial journalism*

- (i) Even where the law does not prohibit it, journalists should not use for their own profit financial information they receive in advance of its general publication, nor should they pass such information to others.
- (ii) They should not write about shares or securities in whose performance they know

that they or their close families have a significant financial interest, without disclosing the interest to the editor or financial editor.

- (iii) They should not buy or sell, either directly or through nominees or agents, shares or securities about which they have written recently or about which they intend to write in the near future.

16. Confidential sources

Journalists have a moral obligation to protect confidential sources of information.

CODE OF PRACTICE, DECEMBER 1999

This is the newspaper and magazine industry's Code of Practice. It is written and revised by the Editors' Code Committee made up of independent editors of national, regional and local newspapers and magazines. It is ratified by the Press Complaints Commission which has a majority of lay members who use the Code to adjudicate complaints.

*The Code was revised in December 1999. Items marked * are covered by the exceptions relating to the public interest.*

All members of the press have a duty to maintain the highest professional and ethical standards. This Code sets the benchmarks for those standards. It both protects the rights of the individual and upholds the public's right to know.

The Code is the cornerstone of the system of self-regulation to which the industry has made a binding commitment. Editors and publishers must ensure that the Code is observed rigorously not only by their staff but also by anyone who contributes to their publications.

It is essential to the workings of an agreed code that it be honoured not only to the letter but in the full spirit. The Code should not be interpreted so narrowly as to compromise its commitment to respect the rights of the individual, nor so broadly that it prevents publication in the public interest.

It is the responsibility of editors to co-operate with the PCC as swiftly as possible in the resolution of complaints.

Any publication which is criticised by the PCC under one of the following clauses must print the adjudication which follows in full and with due prominence.

1. Accuracy

- (i) Newspapers and periodicals must take care not to publish inaccurate, misleading or distorted material including pictures.
- (ii) Whenever it is recognised that a significant inaccuracy, misleading statement or distorted report has been published, it should be corrected promptly and with due prominence.
- (iii) An apology should be published whenever appropriate.
- (iv) A newspaper or periodical must report fairly and accurately the outcome of an action for defamation to which it has been a party.

2. Opportunity to reply

A fair opportunity for reply to inaccuracies must be given to individuals or organisations when reasonably called for.

3. Privacy

- (i) Everyone is entitled to respect for his or her private and family life, home, health

and correspondence. A publication will be expected to justify intrusions into any individual's private life without consent.

- (ii) The use of long lens photography to take pictures of people in private places without their consent is unacceptable.

Note: Private places are public or private property where there is a reasonable expectation of privacy.

4. Harassment

- (i) Journalists and photographers must neither obtain information or pictures through intimidation, harassment or persistent pursuit.
- (ii) They must not photograph individuals in private places (as defined in the note to Clause 3) without their consent; must not persist in telephoning, questioning, pursuing, or photographing individuals after having been asked to desist; must not remain on their property after having been asked to leave and must not follow them.
- (iii) Editors must ensure that those working for them comply with these requirements and must not publish material from other sources which does not meet these requirements.

5. Intrusion into grief or shock

In cases involving grief or shock, enquiries must be carried out and approaches made with sympathy and discretion. Publication must be handled sensitively at such times, but this should not be interpreted as restricting the right to report judicial proceedings.

6. Children

- (i) Young people should be free to complete their time at school without unnecessary intrusion.
- (ii) Journalists must not interview or photograph children under the age of 16 on subjects involving the welfare of the child or of any other child, in the absence of or without the consent of a parent or other adult who is responsible for the children.
- (iii) Pupils must not be approached or photographed while at school without the permission of the school authorities.
- (iv) There must be no payment to minors for material involving the welfare of children nor payment to parents or guardians for material about their children or wards unless it is demonstrably in the child's interest.
- (v) Where material about the private life of a child is published, there must be justification for publication other than the fame, notoriety or position of his or her parents or guardian.

7. Children in sex cases

- (i) The press must not, even where the law does not prohibit it, identify children under the age of 16 who are involved in cases concerning sexual offences, whether as victims or as witnesses.
- (ii) In any press report of a case involving a sexual offence against a child –
 - (a) The child must not be identified.
 - (b) The adult may be identified.