



Introduction

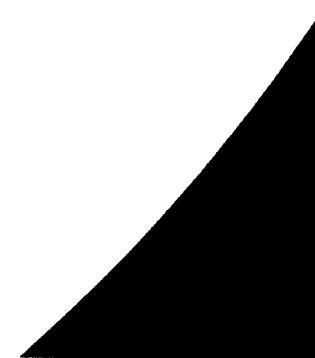
One of the most powerful influences in our society is the media. Hand in hand with the undoubted benefits of a free and vigorous press goes the need to ensure that we can trust it to act responsibly and can be confident that, when things occasionally go wrong, those directly affected have the means to ensure that mistakes are acknowledged and corrected.

This resource pack is designed to be used by teachers when planning Key Stage 5 classes around media regulation and the print media in general, although the content may also prove useful for adaptation to suit younger Key Stage 3 and 4 groups. However it is used, we hope that the material in the pack will answer most of your immediate questions - and those of your students - about how the newspaper and magazine industry is regulated and about the role of the Press Complaints Commission (PCC). As well as the Code of Practice and information on the history and structure of the Commission, you will find examples of actual complaints investigated by the PCC and exercises which you may wish to use in the classroom.

For further research, there are hundreds of cases and a wealth of other information available on the PCC's website: www.pcc.org.uk. Indeed, we would advise you to use this document in close conjunction with the information available on the website.

Finally, although we have acted on feedback on the text from teachers during the research stage, we would welcome additional comments so that the resource can be further improved. Contact details to get in touch with us are given on page 35.

PRESS COMPLAINTS COMMISSION





What does the PCC do?

The Press Complaints Commission (PCC) is an independent body which deals with complaints about the editorial content of newspapers and magazines in the UK, and their websites. It administers a sixteen clause Code of Practice (<http://www.pcc.org.uk/cop/practice.html>), which acts as the 'rules' to which editors and journalists must adhere.

The PCC investigates complaints from people who believe that the Code has been broken ('breached') – either in a published article or in the way a journalist obtained material. Where there is a problem under the Code the PCC acts as a mediator to help the editor and the complainant agree on a way to resolve the dispute, for example, by way of a published correction, apology or clarification.

If the problem cannot be settled in this way, the Commission will assess the evidence and information provided by both sides in the dispute and will issue a formal judgment ('adjudication') on the complaint. The adjudication sets out the reasons why the complaint was upheld or rejected. If the Commission upholds the complaint, the newspaper or magazine in question must publish the text of the PCC's critical adjudication in full, and in a prominent place in the newspaper. This is an effective sanction.

In some cases, the PCC will consider that during the course of its investigation, the publication has made an offer of remedial action that is satisfactory under the terms of the Code, and that therefore no further action is necessary. This might, for example, include the publication offering to publish a correction; writing a private letter from the editor to the complainant; or publishing a follow-up letter from the complainant. Obviously the exact nature of these efforts will vary according to the circumstances of each complaint, but if the PCC deems that 'sufficient remedial action' has been offered, it means that it is satisfied that what has been offered by the publication is a proportionate and adequate response.





How does the system work?

The system of regulation administered by the PCC is not a legal one. Nor is it run by the government. Instead, it is based on a voluntary agreement by the newspaper and magazine industry to allow itself to be regulated by an independent body. While the Code of Practice is drawn up by a committee of editors, the Commission itself has a clear majority of public ('lay') members. Indeed, 10 of the 17 Commissioners – including the Chairman – have no connection to newspapers and magazines. None of the PCC's staff are connected to the industry either.

A list of the Commission members is available on the PCC website: www.pcc.org.uk/about/whoswho/members.html



Baroness Buscombe
Chairman



What does the Code of Practice cover?

The Code of Practice (<http://www.pcc.org.uk/cop/practice.html>) has sixteen sections and covers four main areas: accuracy, privacy, news gathering and protecting the vulnerable. An editor is expected to take responsibility for all the stories and photographs that appear in his or her publication and to ensure that they comply with the Code. Sometimes an editor may want to defend his publication or the behaviour of a journalist as being in the 'public interest'. The Code sets out the circumstances in which an editor may mount such a defence.

The Code does not cover issues of taste and decency. This is because the PCC recognises that in a democratic society, newspapers must have the freedom to choose the style in which they publish material (provided, of course, that they do not break the rules contained in the Code of Practice). Moreover, the Commission understands that people choose to look at a newspaper. They can therefore make an informed decision about which newspaper fits their own tastes. By contrast, advertising billboards, for instance, may be on public view and so rules on taste may be appropriate.

A copy of the Code of Practice is included in this pack on page 21.

PRESS COMPLAINTS COMMISSION

NEWSPAPER AND MAGAZINE PUBLISHING IN THE U.K. Editors' Code of Practice

The Code

The Code of Practice sets out the standards of accuracy, privacy, news gathering and protecting the vulnerable that are expected of editors of newspapers and magazines in the United Kingdom. It is a voluntary code of practice, but it is widely recognised as the benchmark for good practice in the industry.

Accuracy

Accuracy is the foundation of journalism. Editors must ensure that the information they publish is accurate and reliable. They must take steps to verify the accuracy of their sources and to correct any errors that do occur.

Privacy

Editors must respect the privacy of individuals. They must not publish information about a person's private life unless it is in the public interest to do so.

News gathering

Editors must ensure that their journalists follow the rules of the Code when gathering news. They must not engage in practices that are likely to cause harm or distress to individuals.

Protecting the vulnerable

Editors must take special care to protect the interests of vulnerable individuals, such as children and young people. They must not publish information that could identify or harm such individuals.

Public interest

The Code recognises that there are some circumstances in which it is necessary to publish information that would otherwise be considered to be in breach of the Code. This is where the public interest requires it. Editors must be able to justify such decisions.

PCC Guidance Notes

The PCC provides guidance notes to help editors understand the Code and to ensure that they are following good practice. These notes are available on the PCC website.

PRESS COMPLAINTS COMMISSION

How is the PCC funded?

The PCC is funded through a body called the Press Standards Board of Finance (also known as PressBof), which is responsible for collecting money from newspapers and magazines in the UK. The press has agreed that each newspaper or magazine should contribute an amount in proportion to the number of people who buy it and read it (circulation) – so a large, national newspaper like the Sun will have to pay much more money than a small, local paper like the Stourbridge News, for example.

Members of the public do not have to pay for the service either directly or indirectly through their taxes. The PCC does not receive any money from government.



What is the history of the PCC?

The PCC was set up in 1991 and replaced the Press Council, which had been set up in 1953 with the aim of maintaining high standards of journalism as well as protecting press freedom.

During the 1980s, a small number of publications failed to observe the basic ethics of journalism and this led many MPs to lose confidence in the Press Council, which they thought was weak and ineffective. Some politicians believed that it would be preferable to introduce a new regulatory authority which would come under government control and would have the power to enforce legal punishments.

The Government appointed a Departmental Committee under David Calcutt QC to consider the matter. Its task was "to consider what measures (whether legislative or otherwise) are needed to give further protection to individual privacy from the activities of the press and improve recourse against the press for the individual citizen".

Continued over...





PRESS COMPLAINTS COMMISSION

The report that followed did not recommend new statutory controls but proposed a new Press Complaints Commission which would have to prove "that non-statutory regulation can be made to work effectively".

A committee of national and regional editors was duly set up. They produced a formal Code of Practice for the Press Complaints Commission to administer. The Press Standards Board of Finance was set up to organise funding (as detailed above).

Despite some initial teething problems, the PCC has continued to grow in respect and influence. The current Government has made clear its support for effective self-regulation and for the work of the Press Complaints Commission.

In 2007 the House of Commons Culture, Media and Sport Select Committee, (<http://www.publications.parliament.uk/pa/cm200607/cmselect/cmcomeds/375/375.pdf>) made an important statement of principle in support of self-regulation, stating that: "We do not believe that there is a case for a statutory regulator for the press, which would represent a very dangerous interference with the freedom of the press. We continue to believe that statutory regulation of the press is a hallmark of authoritarianism and risks undermining democracy. We recommend that self regulation should be retained for the press".



House of Commons
Culture, Media and Sport
Committee

**Self-regulation of the
press**

Seventh Report of Session 2006-07

*Report, together with formal minutes, oral and
written evidence*

Ordered by The House of Commons
to be printed 3 July 2007

HC 375
by auth
London

Who complains to the PCC and what do they complain about?

The PCC accepts complaints from anyone who believes an article involving them breaches the Code in some way. A number of celebrities have used the PCC's service in recent years including Kate Moss, Elle Macpherson and the singer Ms Dynamite, but most complainants are ordinary people. In 2007, 1.5% of complaints came from people in the public eye, but the vast majority (95.8%) came from ordinary members of the public.

The Code provides special protection to particularly vulnerable groups of people such as children, hospital patients and those at risk of discrimination.

The majority of complaints to the Commission are about regional newspapers, which comes as a surprise to some people. This is perhaps a demonstration of the importance readers attach to the publication which will be seen by most people in their locality.

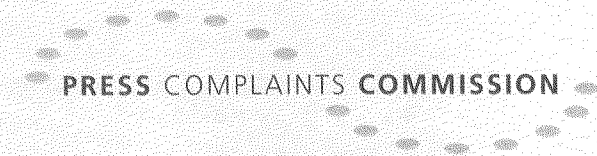


 **Evening Standard**

THE SCOTSMAN

YORKSHIRE
Evening Post

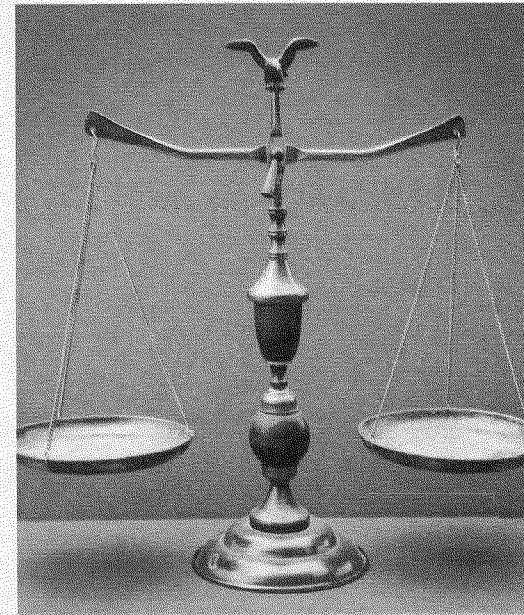
THE BIRMINGHAM POST



Why is the PCC important?

In a democracy, the press should not be subject to stringent controls by law or by government. The PCC, being an independent, voluntary organisation, protects against this possibility simply by its existence.

However, being free does not mean the press should not be accountable - there has to be a balance. It is vital that there be some mechanism which sets out what people can expect from the press, and by which wrongs can be righted when they occur. The PCC is committed to protecting the public by ensuring that when the rules are broken it can put things right as soon as possible. It is **fast** (dealing with a complaint in an average of 35 days); it is **free** (it costs complainants nothing to use the service) and it is **fair** (the Commission is independent from the industry it was set up to regulate).





Case studies

For this section, you should refer to the Code of Practice given on page 21 of this pack.

Read through the following scenarios which have all been considered by the Commission, and think about the following questions:

- Which clauses of the Code are relevant to these cases?
- Do you think that the Code of Practice was broken in any of these cases? If so, why?
- Remember that some clauses of the Code have exceptions where there is an overriding public interest. Could a public interest justification be made in any of these examples?

The Commission's actual decisions are given later on so you can see whether or not you agree with them.

Case Study 1

A man v the Northwich Guardian

A newspaper's website carries a video which had been uploaded onto YouTube. It shows youths throwing fire bombs at a freight train and setting it alight. The printed edition uses stills from the video in a subsequent article.

The father of a 15 year old boy who appears in the video says that in publishing images of his son the newspaper has identified him on an issue involving his welfare. He believes the interests of the children who appear in the video outweigh any public interest in showing it, and says the newspaper should have pixelated their faces.

The newspaper points out that the boy posted the video on the YouTube website himself, thereby voluntarily making it available to the public. Embedding the video on its own webpage meant that it would automatically be unavailable when it was removed from YouTube. (The boy's father says that the stills from the video which appeared in the newspaper itself will always remain available). The newspaper says it is in the public interest to publicise the incident, which is of a serious and anti-social nature. The youths planned to carry out the attack, prepared their materials and selected their target. The newspaper argues that the community have a right to know about the incident.

Q: Does the publication of the video on the newspaper's website and of the stills in the print version improperly identify a 15 year old boy?



Case Study 2

A man v Zoo magazine

A father objects to a photograph of him and his 10-year-old daughter, taken at a Premiership football ground following his team's defeat there in an FA Cup match. The pair were pictured in the crowd making offensive hand gestures, which were described in the piece as 'terrace bigotry'. The man says his daughter has been ridiculed by the magazine and that her face should have been pixelated – as it was by other publications.

The 'lad's' magazine in which the photograph appeared says that, while in certain cases it is appropriate to obscure a child's face to protect his or her privacy, this is not such an occasion. Firstly, the man and his daughter were in a public place (i.e. the football ground). Secondly, the subject matter of the photograph does not concern the child's welfare; rather, she and the complainant made offensive gestures to other members of the public and their behaviour is quite properly open to censure.

Q: Should the magazine have obscured the child's features?

Q: Did the father's behaviour suggest that that he did not want to draw the attention of the press to his child?



Case Study 3

A man v The Sunday Times

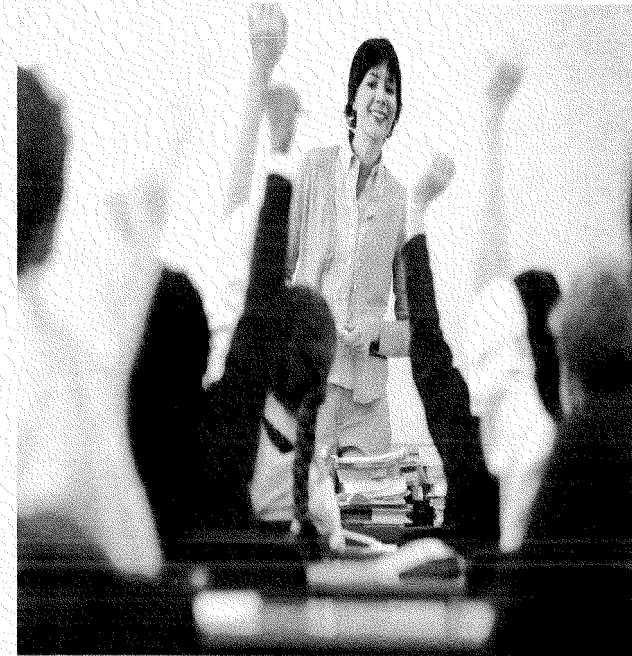
The parent of a 14 year old boy, who attends a London school where a student has been fatally stabbed, says that his son was approached by a journalist who offered him £1000 for a picture of the suspect, to be taken from the school database.

The parent claims that the journalist spoke at length with his son and continued his conversation with him via telephone and text messages. The boy's father says his son has since had to leave the school, having been seen talking to the press by the suspect's friends.

The newspaper denies that its reporter offered the boy money or asked him to enter the school to obtain a photograph. However, it accepts that the reporter spoke to the boy and accompanied him to an internet cafe to see if a photograph could be downloaded. No photograph was taken of the boy and none of his comments to the reporter were published.

Q: Does this mean there is no complaint to answer?

Has the Code been breached?



Case Study 4

A woman v The Independent

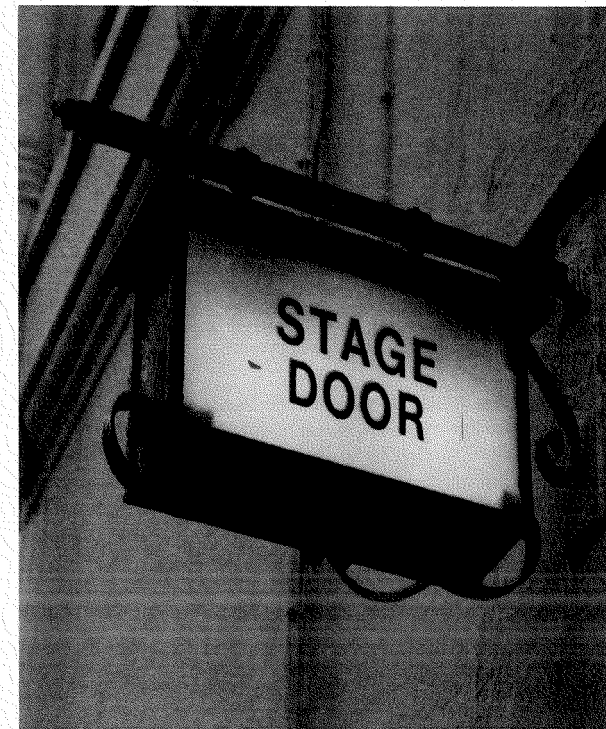
An actress complains through her agent that a piece in a celebrity gossip column has intruded into her privacy.

The article reports that she has withdrawn from a theatre role because she has fallen pregnant. It also says she pulled out from a previous role because of a pregnancy and suggests that her efforts to start a family are getting in the way of her career.

The actress says the article intrudes into her privacy by announcing her pregnancy before she has even told her family – at that point the only people she has informed are her partner, her agent and the producer of the show. A press release explaining her withdrawal referred only to ‘unforeseen circumstance’. She subsequently suffers a miscarriage.

Initially the newspaper responds by saying that, while it regrets the distress the actress has suffered, its columnist had no reason to believe that the pregnancy was not public information. It offers to consider a letter for publication in response to the article and says the item had been removed from its website. When the PCC investigates, the newspaper apologises privately for revealing the pregnancy, and also offers to publish an apology.

Q: Is this offer by the newspaper sufficient redress?



Case Study 5

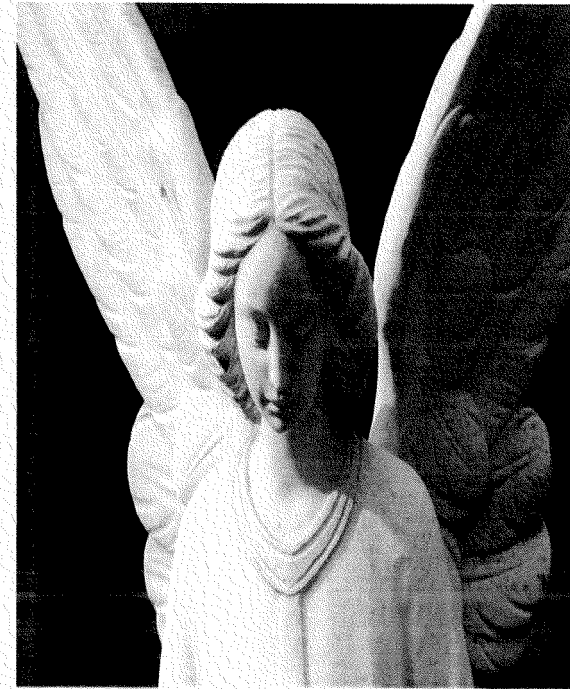
A woman v The Sun

Several newspapers publish photographs of a woman jumping to her death from a London hotel. The tragedy occurred in view of onlookers and a passing photographer. One newspaper publishes the photographs before the woman's identity had been made known: one picture shows her standing on a ledge outside a window, and one photograph shows her during the fall. Other newspapers publish similar images the following day after the woman has been identified.

A friend of the woman complains that the publication of the images was unnecessary and that it was merely a matter of luck that she had been informed of her friend's death before she saw the coverage. She considers the images to be horrifying and distressing, and the publication to be disgusting and voyeuristic.

The newspapers express their condolences to the family and friends of the dead woman, and express regret for the distress that has been caused. However, they argue that the decision to publish the photographs – taken after a great deal of consideration by senior executives – is justified. The event took place in public view on a road in the capital city and was witnessed by a crowd of onlookers; the coverage was brief and factual, and neither made light of the circumstances of the death nor dwelt salaciously on unpleasant details.

Q: Would the terms of Clause 5 on intrusion into grief and shock apply in this instance?



Case Study 6

A woman v Eastbourne Gazette

A reporter from a local newspaper approaches close family members of a man who has suffered a motorcycle accident that left him in a coma.

During the man's first visit home after regaining consciousness, a journalist approaches the house wishing to speak to the family with a view to a story. He is told by the family that they will call him at a more appropriate time if they decide to speak about the accident. The journalist leaves an answerphone message later in the week, and telephones again asking for permission to visit the man. Permission is firmly denied, but that day the journalist enters the hospital without identifying himself and questions the man, despite the fact that his injuries are such that 'he barely knows his own name'.

Q: Is the journalist just doing his job in pursuing an interview even in the hospital, or is he unduly harassing the man in breach of Clause 4 (Harassment) and behaving irresponsibly in breach of Clause 8 (Hospitals)?



Case Study 7

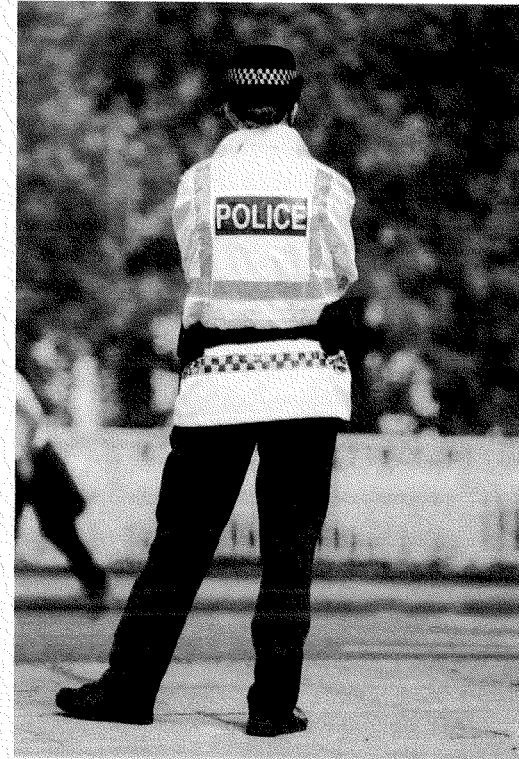
A police officer v The Sunday Telegraph

Journalists arrive at the home of a woman police officer, who has responsibility for investigating racially-motivated crimes. They pretend they are writing a book about military history and want to speak to her husband. In fact, they are seeking to expose the fact that the policewoman's husband has a large collection of Nazi memorabilia, including a mannequin dressed in SS uniform. To the journalists, this seems to sit uneasily with the nature of the policewoman's job investigating racially-motivated crimes.

Neither the officer nor her husband are there when the journalists call, but her mother-in-law opens the door. The female reporter says she wishes to use the lavatory and is directed upstairs by the mother-in-law. Meanwhile the male journalist enters the house and takes photographs that then appear in the article, and which the police officer says intrude into her privacy. The police officer also complains about the journalists' misrepresentation. The newspaper acknowledges it used subterfuge in researching the story, arguing that their actions were in the public interest as the complainant was a police officer with responsibility for investigating racially-motivated crimes.

It also argues that the information could not have been obtained by other means since the police woman's husband – the owner of the memorabilia and a member of the British National Party – had said he would never speak to a reporter again having previously been 'caught out'.

Continued





PRESS COMPLAINTS COMMISSION

Q: Have the journalists invaded the privacy of this woman and her family and, if so, was it justified?

Q: The Code has rules on using subterfuge and misrepresentation. Did the journalists behave improperly in this respect or was the newspaper right in argue they were acting in the public interest?

Case Study 8

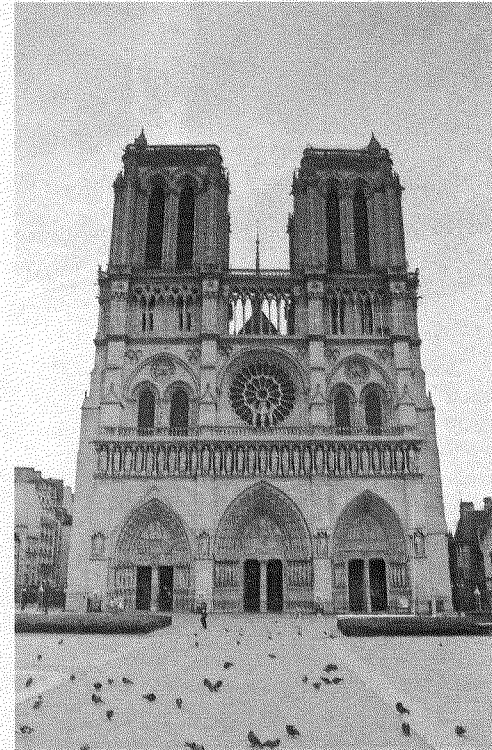
Paul McCartney v Hello!

Sir Paul McCartney is photographed with his son and his daughter walking in Paris, seated by the Seine and eating lunch outside a cafe. One photograph shows the family inside Notre Dame cathedral and the magazine describes how they lit a candle for Sir Paul's recently deceased wife, Linda, and took some time to meditate in peace.

Sir Paul says he was unaware that he and his family had been stalked by photographers but believes they have taken "highly intrusive photographs of us in our most private moments at this very difficult time in our lives".

The editor of Hello! Magazine says the photos were obtained from news agencies and were not taken secretly. She concedes that the photograph of the family in the cathedral should not have appeared and writes directly to the celebrity to apologise for any distress caused.

Q: Should a well-known celebrity like this, photographed in a place open to the public, expect privacy in these circumstances?



Code of Practice

This is the newspaper and periodical industry's Code of Practice. It is framed and revised by the Editors' Code Committee made up of independent editors of national, regional and local newspapers and magazines. The Press Complaints Commission, which has a majority of lay members, is charged with enforcing the Code, using it to adjudicate complaints. It was ratified by the PCC on the 1 August 2007. Clauses marked* are covered by exceptions relating to the public interest.

All members of the press have a duty to maintain the highest professional standards. The Code, which includes this preamble and the public interest exceptions below, sets the benchmark for those ethical standards, protecting both the rights of the individual and the public's right to know. It is the cornerstone of the system of self-regulation to which

the industry has made a binding commitment.

It is essential that an agreed code be honoured not only to the letter but in the full spirit. It should not be interpreted so narrowly as to compromise its commitment to respect the rights of the individual, nor so broadly that it constitutes an unnecessary interference with freedom of expression or prevents publication in the public interest.

It is the responsibility of editors and publishers to apply the Code to editorial material in both printed and online versions of publications. They should take care to ensure it is observed rigorously by all editorial staff and external contributors, including non-journalists. Editors should cooperate swiftly with the PCC in the resolution of complaints. Any

publication judged to have breached the Code must print the adjudication in full and with due prominence, including headline reference to the PCC.

1 Accuracy

- i) The press must take care not to publish inaccurate, misleading or distorted information, including pictures.
- ii) A significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence, and – where appropriate – an apology published.
- iii) The press, whilst free to be partisan, must distinguish clearly between comment, conjecture and fact
- iv) A publication must report fairly and accurately the outcome of an action for defamation to which it has been a party, unless an agreed settlement states otherwise, or an agreed statement is published.

2 Opportunity to reply

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

3* Privacy

- i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications. Editors will be expected to justify intrusions into any individual's private life without consent.
- ii) It is unacceptable to photograph individuals in a private place without their consent.

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

4* Harassment

- i) Journalists must not engage in intimidation, harassment or persistent pursuit.
- ii) They must not persist in questioning, telephoning, pursuing or photographing individuals once asked to desist; nor remain on their property when asked to leave and must not follow them.
- iii) Editors must ensure these principles are observed by those working for them and take care not to use non-compliant material from other sources.

5 Intrusion into grief or shock

- i) In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. This should not restrict the right to report legal proceedings, such as inquests.
- ii) When reporting suicide, care should be taken to avoid excessive detail about the method used.

6* Children

- i) Young people should be free to complete their time at school without unnecessary intrusion.
- ii) A child under 16 must not be interviewed or photographed on issues involving their own or another child's welfare unless a custodial parent or similarly responsible adult consents.
- iii) Pupils must not be approached or photographed at school without the permission of the school authorities.
- iv) Minors must not be paid for material involving children's welfare, nor parents or guardians for material about their children or wards, unless it is clearly in the child's interest.
- v) Editors must not use the fame, notoriety or position of a parent or guardian as sole justification for publishing details of a child's private life.

Code of Practice - continued

7* Children in sex cases

- i) The press must not, even if legally free to do so, identify children under 16 who are victims or witnesses in cases involving sex offences.
- 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.
 - c) The word 'incest' must not be used where a child victim might be identified.
 - d) Care must be taken that nothing in the report implies the relationship between the accused and the child.

8* Hospitals

- i) Journalists must identify themselves and obtain permission from a responsible executive before entering non-public areas of hospitals or similar institutions to pursue enquiries.
- ii) The restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospitals or similar institutions.

9* Reporting of Crime

- i) Relatives or friends of persons convicted or accused of crime should not generally be identified without their consent, unless they are genuinely relevant to the story.
- ii) Particular regard should be paid to the potentially vulnerable position of children who witness, or are victims of, crime. This should not restrict the right to report legal proceedings.

10* Clandestine devices and subterfuge

- i) The press must not seek to obtain or publish material acquired by using hidden cameras or clandestine listening devices; or by intercepting private or mobile telephone calls, messages or emails; or by the unauthorised removal of documents, or photographs; or by accessing digitally-held private information without consent.
- ii) Engaging in misrepresentation or subterfuge, including by agents or intermediaries, can generally be justified only in the public interest and then only when the material cannot be obtained by other means.

11 Victims of sexual assault

The press must not identify victims of sexual assault or publish material likely to contribute to such identification unless there is adequate justification and they are legally free to do so.

12 Discrimination

- i) The press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, gender, sexual orientation or to any physical or mental illness or disability.
- ii) Details of an individual's race, colour, religion, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story.

13 Financial journalism

- i) Even where the law does not prohibit it, journalists must 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 must 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 must 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.

14 Confidential sources

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

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Code of Practice - continued

15 Witness payments in criminal trials

i) No payment or offer of payment to a witness – or any person who may reasonably be expected to be called as a witness – should be made in any case once proceedings are active as defined by the Contempt of Court Act 1981. This prohibition lasts until the suspect has been freed unconditionally by police without charge or bail or the proceedings are otherwise discontinued; or has entered a guilty plea

to the court; or, in the event of a not guilty plea, the court has announced its verdict.

*ii) Where proceedings are not yet active but are likely and foreseeable, editors must not make or offer payment to any person who may reasonably be expected to be called as a witness, unless the information concerned ought demonstrably to be

published in the public interest and there is an over-riding need to make or promise payment for this to be done; and all reasonable steps have been taken to ensure no financial dealings influence the evidence those witnesses give. In no circumstances

should such payment be conditional on the outcome of a trial.

*iii) Any payment or offer of payment made to a person later cited to give evidence in proceedings must be disclosed to the prosecution and defence. The witness must be advised of this requirement.

16* Payment to criminals

i) Payment or offers of payment for stories, pictures or information, which seek to exploit a particular crime or to glorify or glamorise crime in general, must not be made directly or via agents to convicted or confessed criminals or to their associates

– who may include family, friends and colleagues.

ii) Editors invoking the public interest to justify payment or offers would need to demonstrate that there was good reason to believe the public interest would be served. If, despite payment, no public interest emerged, then the material should

not be published.

The public interest*

There may be exceptions to the clauses marked *where they can be demonstrated to be in the public interest.

1. The public interest includes, but is not confined to:

i) Detecting or exposing crime or serious impropriety.

ii) Protecting public health and safety.

iii) Preventing the public from being misled by an action or statement of an individual or organisation.

2. There is a public interest in freedom of expression itself.

3. Whenever the public interest is invoked, the PCC will require editors to demonstrate fully how the public interest was served.

4. The PCC will consider the extent to which material is already in the public domain, or will become so.

5. In cases involving children under 16, editors must demonstrate an exceptional public interest to over-ride the normally paramount interest of the child.



Case Studies: The Commission's Decisions

Full details of the actual adjudications can be found in the 'Cases' section of the PCC website
www.pcc.org.uk/cases

Case Study 1: A man v the Northwich Guardian

Commission's Decision: Not Upheld

The Code provides strong protection for children, but it does not include a blanket ban on publishing their photographs or stories about them without consent. In addition to the general privacy rights contained in Clause 3 – which are applicable to everyone – children are entitled to complete their time at school without unnecessary intrusion, and entitled not to be interviewed or photographed by the press on a subject involving their own or another child's welfare. There may be exceptions to these rules in the public interest.

There were numerous reasons why this complaint did not raise a breach of the Code. The first was that the information contained in the video was not private. It showed an anti-social or criminal act committed in a public place by individuals who were over the age of criminal responsibility. Publishing the story was clearly a matter of public interest and an example of an entirely legitimate journalistic exercise.

Second, the information was not only in the public domain, but had been placed there voluntarily by the complainant's son. The newspaper itself had therefore neither interviewed nor photographed the youths, but had simply referred to information that was freely available and that, for whatever reason, the perpetrators of the incident had wanted to circulate publicly.

It was also debatable whether the still pictures in the printed newspaper would have been sufficient to identify the complainant's son, and the Commission noted that the text of the piece had not named anyone involved. The YouTube video that the paper had decided to make available through its website, thereby bringing it within the scope of the Code, was clearer. But whether the complainant's son was identifiable or not, it would have been contrary to any common sense or fairness for the Commission to afford greater protection to the youths in this case than to other law-abiding children because of their behaviour. This is in circumstances where innocuous pictures taken of children in public places do not normally breach the Code.

One consequence of anti-social or criminal activity is public scrutiny and, providing there are no legal restrictions, this will involve the publication of stories in the press. The Commission did not intend to restrict the right of the press to report such incidents by upholding this complaint.

Case Study 2: A man v Zoo magazine

Commission's Decision: Not Upheld

The child was photographed in a crowd at a very public FA Cup tie – with many photographers and television cameras present and so was not intrusive. Nor did it involve the child's welfare.

It is not the case that any picture of a child taken and published without the consent of the parent will always breach the Code. The subject matter of the photograph is relevant, as is the context.

This photograph was different from a simple face-in-the-crowd picture because of the girl's anti-social gesture and her position next to her father, who was at the same time giving a Nazi salute, for which it was said he had later been arrested. The photograph revealed something about the manner in which the girl was being brought up – for which she was not herself responsible – but her welfare was involved. However, while her father may not have actively consented for the photograph to be used, the Commission could not ignore the context in which it was taken. At this football match, he and his daughter would have been seen by a large number of people, and must have been aware of the possibility of being photographed by press photographers or even appearing on television. In these circumstances, it was hardly unreasonable for some people in the media to assume that the complainant was unconcerned about publication of pictures of him and his daughter using such gestures, and that consent had therefore been implied. On balance, therefore, the Commission considered that there was no breach of the Code in the taking of the photograph or its publication.



Case Study 3: A man v The Sunday Times

Commission's Decision: Upheld

There was a considerable conflict between the accounts of the complainant and the newspaper over the contact between the reporter and the complainant's son. Nevertheless it was clear that a reporter from the newspaper had approached and spoken to the complainant's son on a subject that involved the welfare of the children at the school. The necessary consent from a custodial parent had not been obtained, and the result was a straightforward breach of Clause 6 (Children) of the Code. The complaint was upheld on that basis.

Finally, the Commission wished to address the suggestion that payment had been offered to the complainant's son for a photograph, which may have involved a breach of Clause 6 (iv) of the Code. It had not been possible satisfactorily to establish the facts of the matter on this occasion, and the Sunday Times had strongly denied having been involved in making such an offer.

Case Study 4: A woman v The Independent

Commission's Decision: Upheld

As a matter of common sense, newspapers and magazines should not reveal news of an individual's pregnancy without consent before the 12 week scan, unless the information is known to such an extent that it would be perverse not to refer to it. This is because of the possibility of complications or miscarriage – something that was sadly a feature in this case – and because it should be down to the individual when to share the news with her family and friends in the early phase of a pregnancy.

Revealing the complainant's pregnancy at such a stage – before she had told her family, and when it was not obvious – was therefore a serious intrusion into her private life. The action taken and offered by the newspaper in response to the complaint was welcome but was not sufficient as a remedy to what was a significant breach of Clause 3 (Privacy) of the Code.

Case Study 5: A woman v The Sun

Commission's Decision: Not Upheld

The Commission appreciated that the publication of the photographs would have exacerbated the grief of those close to the woman in question, and, that the photographs were clearly distasteful to her friends. However, matters of taste and decency fall outside the terms of the Code of Practice. In part, this is because the Code is a set of guidelines designed to protect individuals directly affected by journalistic practice (normally the subject of an article or approach by a journalist) rather than a device for members of the public to register objections about matters of editorial judgement. Editors are best placed to decide what their readers will find acceptable in terms of taste and decency – something that will vary between different sorts of publication, and something that is therefore unsuited to being subject to national rules across the whole of the newspaper industry. The PCC's job in this case was to assess whether the newspaper had failed to 'handle publication sensitively' at a time of grief and shock. Part of that was to consider whether publication had broken the news of the death to the dead woman's immediate family – which it had not.

The simple fact of publishing photographs of what was a public incident did not, in itself, constitute a failure to be sensitive. The Commission considered that it should be slow to restrict the right of newspapers to report newsworthy events that take place in public. This includes the right to publish photographs. This tragic case concerned an unusual death, which had taken place in public. As such, it was a newsworthy event.

This did not mean, though, that the newspaper was free to publish the information in an insensitive manner, such as by making light of the incident or including unnecessarily explicit details. Had the newspaper done so, there would have been a breach of the Code.



PRESS COMPLAINTS COMMISSION

The complaint under Clause 5 was not therefore upheld.

There was no evidence that any of the dead woman's immediate family had learned of her death through reading the newspaper coverage of it. The Sun said that it had known that she was an American guest at the hotel when it published the images, and had indeed made this clear in the accompanying text from which it supposed readers would have concluded that she was a tourist. In any case the images published on the first day were not especially large or clear and would not necessarily have led to the woman's identification.

While there was a suggestion that some coverage revealed the news to some of her friends but these were not her close family and newspapers cannot be expected to guard against breaking the news of a death to the wider circle of acquaintances. The complainant was also concerned that publication of the images might encourage 'copycat' suicides. At the time of the complaint this subject was not addressed by the Code which has since been reviewed.

Case Study 6: A woman v Eastbourne Gazette

Commission's Decision: Upheld

Clause 8 (i) of the Code – which is one of the central provisions relating to the protection of vulnerable people – clearly states that ‘journalists or photographers making enquiries at hospitals or similar institutions must identify themselves to a responsible executive and obtain permission before entering non-public areas’. The newspaper had rightly conceded a clear breach of this clause as, while there was some dispute about the response to the journalist’s initial approach, the request to desist should have been heeded prior to the hospital visit.

The Commission noted with approval that the newspaper had apologised in writing, undertaken not to publish the material, and taken disciplinary action against the journalist, but it emphasised that the responsibility to ensure that material is gathered in accordance with the requirements of the Code lies with editors. In this instance the Commission believed that this was a serious breach of the Code which no action could effectively remedy and therefore upheld the complaint under clause 4 (Harassment) and clause 8 (Hospitals).

Case Study 7: A Detective Constable v The Sunday Telegraph

Commission's Decision: Not Upheld

Since the use of subterfuge had been admitted by the newspaper the Commission had to decide whether its use was justified in the public interest and whether the information obtained could have been uncovered by other means. The Commission concluded that there was a legitimate public interest defence for the journalists' behaviour since the police officer had specific responsibilities for investigating racially motivated crimes and the question of whether her job was compatible with living in a home containing Nazi memorabilia was a justifiable one to bring into the public domain.

The PCC also thought it reasonable for the newspaper to argue that a police officer with such responsibilities would not have allowed a photographer to take pictures of Nazi memorabilia in her home. In addition, it noted that her husband, the owner of the memorabilia, had apparently determined never to speak to reporters after a previous experience. In such circumstances, the Commission thought it reasonable for the newspaper to employ subterfuge as the only means of obtaining the relevant information about the complainant's house. Any potential breach of Clause 3 of the Code through the publication of the relevant material was also justified in the public interest on the grounds outlined above.



Case Study 8: Paul McCartney v Hello!

Commission's Decision: Upheld

It was clear that Sir Paul felt the photographs to be deeply intrusive and the Commission agreed. The Commission did not believe that the public interest was served by showing how wonderfully close his relationship with his children was. In particular, the Commission deplored publication of the photograph of the family inside the cathedral. It has stated before that it expects journalists to respect the sanctity of individuals acts of worship and believed that a cathedral is a clear example of a place where there is a reasonable expectation of privacy as defined in the Code of Practice.

The complaints under Clause 3 and Clause 5 were upheld.

Topics for discussion

You might like to follow up on some of the points below for additional work around press regulation:

1. The Editors' Codebook is an excellent source of background information about the Code of Practice. The Codebook is the official handbook that sets the Code of Practice in context, bringing together the Code and the case-law developed through years of PCC adjudications. By matching the cases to the rules it provides a unique guide to how the Code works in practice and is a good way for students to imagine themselves in the position of a working editor or journalist.
http://www.editorscode.org.uk/the_code_book.html
2. The PCC has issued a number of Guidance Notes over the years on topics such as the reporting of mental health, court reporting and refugees and asylum seekers. These are not extra rules in addition to the Code, but rather offer practical guidance on how the Code is applied in specific circumstances. The full list can be found at <http://www.pcc.org.uk/advice/editorials.html> and is worth spending a few minutes exploring.
3. Since early 2007, the PCC has regulated the audio-visual content of newspaper and magazine websites – i.e. audio and video files that are published online, as well as text. Encourage your students to look at some of the main national and regional newspaper websites to see how the press is increasingly using audio-visual content in stories.





Links

The following websites may be of interest for background reading:

www.mediaguardian.co.uk

www.pressgazette.co.uk

www.journalism.co.uk

www.holdthefrontpage.co.uk

Further Information

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