

Mr Ian Cooper v Cambridge News

Clauses noted: 3, 5, 6

Mr Ian Cooper of Cambridgeshire complained to the Press Complaints Commission that a picture published in the Cambridge News on 23 October in an article headlined "Hunt for mother after Cambridgeshire girl's horror fall", intruded into the privacy of his daughter in breach of Clause 3 (Privacy) and 6 (Children) of the Code of Practice. The picture in question was subsequently published in numerous other newspapers. The complainant considered each publication to be a further intrusion into his daughter's privacy. He also complained that the Cambridge News had breached Clause 5 (intrusion into grief or shock) of the Code by republishing the photograph after he had requested that it no longer be used.

The complaint was not upheld.

The complainant's daughter had suffered serious injuries after falling from a hotel balcony while on holiday in Mallorca. Her fall – and the subsequent death of her mother – were the subject of considerable media attention in the UK over a number of weeks.

On 23 October the Cambridge News published a 'picture exclusive': a photograph of the complainant's daughter. The picture was subsequently syndicated via a local agency to the wider media and was used extensively in newspaper articles and on television. The complainant argued that the use of the image on every occasion was an intrusion into his daughter's privacy.

The Cambridge News explained that the picture had been obtained from its own archive, having originally been published in 2004 as part of a larger photograph showing the complainant's daughter and her classmates on their first day at school. The 2004 photo had been taken and published with the consent of the school in question and had not been the subject of any complaint. It was surely legitimate to re-use the image (or part of the image) in order to illustrate an important news story. The newspaper did not consider that it needed to obtain consent before publishing the picture nor did it consider that it was improper to continue using it after being asked not to.

The other newspapers also argued that the image was in the public domain and that their use of it was not intrusive. Some agreed not to use it again in the future as a gesture of goodwill.

Adjudication

There was an important matter of principle at the heart of this complaint: when is it acceptable to publish photographs of children without the specific consent of their parents? In such cases, the interests of the child have to be balanced against the general right of the public to information – including photographs – about people in the news. At times of grief or shock, the circumstances in which photographs are obtained, and the manner in which they are presented, will both be relevant to any determination about whether the Code of Practice has been breached. It is also the case that the Code does not require editors to seek permission before publishing any photographs of children. The Code says that children must not be photographed on issues involving their welfare without the consent of a custodial parent, and that young people should be free to complete their time at school without unnecessary intrusion. It also extends general privacy rights to everyone, saying that people are entitled to respect for their 'private and family life'.

The Commission first addressed the argument that the subject matter of the story concerned the welfare of the child and that publication of the photograph intensified the attention on her, interfering with her time at school.

The Commission had to balance this argument with the fact that the girl was involved in a tragic but newsworthy incident; her identity was in the public domain; and her association with the incident

was known locally. It was by no means clear that publishing her photograph in these circumstances would in itself have further compromised her welfare. There would, regrettably, inevitably have been an impact on the child's welfare because of the circumstances of the incident she had been involved in.

It was also important for the Commission to consider how the photograph was used. It noted that the picture simply illustrated what the girl looked like without including any private information about her. Nor was there anything in the picture that made publication insensitive in the context of the piece. The Code does not say that legitimate news stories which involve the welfare of children may not be illustrated by such pictures.

The background to the Cambridge News's use of the photograph was also relevant: it was legitimately in the newspaper's possession and had been published before. It had not therefore been obtained by use of subterfuge or taken in a private place without consent. This was important when combined with the fact that the photograph was innocuous. While there may be circumstances when it would be insensitive for a newspaper to republish a photograph it owned at a time of grief or shock – because of the nature of the photograph – that was not the case here.

There was also an argument made by the complainant that, at times when children are vulnerable, it should be for their parents to decide when and how they are portrayed. The Commission considered that, while some would inevitably have sympathy for this view, it would simply not be feasible to expect editors to check with the parents of minors in the news about how they would be represented before publication. The Commission could understand why the complainant would want to retain control over how his family was portrayed at such a difficult time. But, in terms of press reporting, the key requirements on editors are those contained within the Code of Practice. For the reasons set out above, and while sympathising with the complainant, the Commission did not consider that there had been a breach of the Code on this occasion. As all the newspapers had used the picture in the same illustrative way, these findings applied both to the Cambridge News and the other publications complained about.

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