

***Ms Mullan, Mr Weir & Ms Campbell v Scottish Sunday Express***

Clauses noted: 3

Ms Elizabeth Mullan, Mr Robert Weir & Ms Morag Campbell complained to the Press Complaints Commission that an article headlined "Anniversary shame of Dunblane survivors", published in the Scottish Sunday Express on 8 March 2009, intruded into their sons' private lives in breach of Clause 3 (Privacy) of the Editors' Code of Practice.

The complaint was upheld.

The article reported that the survivors of the Dunblane shooting in 1996 – who were now turning 18 – had 'shamed' the memory of the deceased with 'foul-mouthed boasts about sex, brawls and drink-fuelled antics' posted on their social networking sites.

The complainants said that the coverage had seriously affected their sons by criticising them and unnecessarily drawing attention to them as Dunblane survivors – including by publishing photographs of them – when they had previously been shielded from public view. They were just ordinary teenagers, and the article constituted a serious intrusion into their private lives.

The newspaper argued that the information had been publicly accessible on social networking sites. The identities of the individuals were well-known, as they had been named at the time of the shooting. Nonetheless, it recognised that the tone of the coverage was ill-judged and unjustified, and published a lengthy apology. It sincerely regretted any upset or distress caused to the families, and offered to meet them to discuss the matter or to send private letters of apology.

The complainants said that the published apology was unsatisfactory, and had only been made because of a national outcry and a petition which had attracted 11,000 signatures.

*Adjudication*

This case represented the latest example of newspapers using material that has been uploaded by members of the public on to social networking sites. The Commission considers that it can be acceptable in some circumstances for the press to publish information taken from such websites, even if the material was originally intended for a small group of acquaintances rather than a mass audience. This is normally, however, when the individual concerned has come to public attention as a result of their own actions, or are otherwise relevant to an incident currently in the news when they may expect to be the subject of some media scrutiny. Additionally, if the images used are freely available (rather than hidden behind strict privacy settings), innocuous and used simply to illustrate what someone looks like it is less likely that publication will amount to a privacy intrusion. Circumventing privacy settings to obtain information will require a public interest justification.

In this case, while the boys' identities appeared to have been made public in 1996, it was also the case – as the article itself had recognised – that they had since been brought up away from the media spotlight. The article conceded that 'no photographs of any of the children have been seen in more than a decade'. They were not public figures in any meaningful sense, and the newsworthy event that they had been involved in as young children had happened 13 years previously.

Since then they had done nothing to warrant media scrutiny, and the images appeared to have been taken out of context and presented in a way that was designed to humiliate or embarrass them. Even if the images were available freely online, the way they were used – when there was no particular reason for the boys to be in the news – represented a fundamental failure to respect their private lives. Publication represented a serious error of judgement on the part of the newspaper.

Although the editor had taken steps to resolve the complaint, and rightly published an apology, the breach of the Code was so serious that no apology could remedy it.

Adjudication issued 22/06/2009