

Ms Marina Palomba v The Sun

Clauses noted: 5

Ms Marina Palomba of London complained to the Press Complaints Commission that an article published in The Sun on 4 January 2006 headlined "Hotel death leap" was intrusive at a time of grief in breach of Clause 5 (Intrusion into grief and shock) of the Code. A further article published the following day headlined "Lawyer in death fall" repeated some of the information.

The complaint was not upheld.

The articles reported the suicide of a woman, identified in the second piece as Katherine Ward, who had jumped from a London hotel in view of onlookers and a passing photographer. The newspaper published two photographs of Ms Ward: one standing on a ledge and one during the fall.

The complainant was a friend of Ms Ward, who complained that publication of the images was unnecessary. They had first appeared before the death of Ms Ward had been widely known and before she had been fully identified. It was merely a matter of luck that the complainant had been informed of her friend's death before she saw the coverage. She considered the images to be horrifying and distressing, and their publication to be disgusting and voyeuristic.

The newspaper expressed its condolences to the family and friends of Ms Ward, and regretted the distress that had been caused to them. However, it argued that its decision to publish the photographs – taken after a great deal of consideration by senior executives – was justified. The event had taken place in public view on a road in the capital city and was witnessed by a crowd of onlookers. The presentation of the images, including the accompanying headlines and text, was not – in the newspaper's view – gratuitous. The coverage was brief and factual, and neither made light of the circumstances of the death nor dwelt salaciously on unpleasant details.

The photographs themselves were small on the page, in black and white, and were not likely to identify Ms Ward by themselves. She was also characterised in the text of the first piece as an 'American guest' of the hotel, which would have suggested to readers that she was a tourist. The newspaper considered that it had covered a newsworthy event in a responsible fashion.

The complainant maintained that the newspaper should not have published the photographs. It was no defence that the incident took place in public or that the public would be likely to be interested in the photographs of it. If the terms of Clause 5 did not apply in this instance, they would not apply to any situation involving a tragic death such as this.

Adjudication

The Commission sympathised greatly with the family and friends of Ms Ward. It appreciated that the publication of the photographs would have exacerbated the grief of those close to her. It acknowledged and understood the strength of feeling, made clear in the complaint, that the photographs were distasteful and should not have been published at all.

It was important at the outset for the Commission to record that it was not its task to judge whether publication had exceeded any bounds of tastefulness. Matters of taste and decency fall outside the terms of the Code of Practice. This is because the Code of Practice is in part a set of rights for 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 generally to register objections about matters of editorial judgement to which they take exception. The Commission considers that 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, industry-wide rules.

Of course, the complainant and others who knew Katherine Ward clearly had more than a general interest in the matter. However, the Commission wished to acknowledge the suggestion that the publication of the image was likely to offend and upset readers more widely. Individual members of the Commission shared this view and regretted that publication had caused offence to members of the public, as well as additional distress to Ms Ward's friends.

The role of the Commission as a whole was to assess under the Code whether the publication of the images constituted a failure by the newspaper to 'handle publication sensitively' at a time of grief and shock. Although it is not explicit in the Code of Practice, the Commission also considers in such cases whether publication has broken the news of the death to a victim's immediate family.

Against that background, the Commission first dealt with the broad question of whether publication was handled sensitively under the terms of Clause 5 of the Code. While accepting that this would to some extent inevitably be a subjective judgement, it concluded that there was no breach of the Code on this point.

It started from the position that 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. The fact was, however, that it had not sought to trivialise or sensationalise the death of Ms Ward, and had not presented the photographs, in terms of their scale and accompanying text, in a gratuitously graphic manner.

This part of the complaint under Clause 5 was not therefore upheld.

The Commission next turned to the question of whether publication had broken the news of the death to the victim's immediate family.

Firstly, there was no evidence that any of Ms Ward's immediate family – who were apparently all abroad – 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 Commission noted that the images published by the Sun on the first day were not especially large or clear and would not, in its view, necessarily have led to Ms Ward's ready identification.

While there was a suggestion that some coverage revealed the news to some of her friends, the Commission has never taken the view that its position that newspapers should not generally break the news of a death to a victim's immediate family can reasonably extend to all those connected to the victim.

There was, therefore, no breach of the Code on this point.

However, it was important to remind editors of the need for great care in ensuring that they are not the first people to inform family of the news of a bereavement. Where possible, steps should be taken in advance of publication to discover the exact extent to which family are aware of a death.

The complainant was also concerned that publication of the images might encourage 'copycat' suicides. There was no breach of the Code on this point as the terms of the Code do not extend to

the issue of copycat suicides. However, the Commission understands that the Code of Practice Committee is shortly to consider – as part of its annual review of the Code – whether the Code should be amended in order to cover this issue. The Commission suggested that the Code Committee might take this opportunity, more generally, to consider the extent to which the reporting of suicide – and any sudden death – is covered by the Code as it currently stands.

While reiterating its profound sympathies to the family and friends of Ms Ward, the Commission did not uphold the complaint.

Relevant rulings

Curnow v Edinburgh Evening News, 1997

Oliver v Manchester Evening News, 1998

Napuk/Gibson v FHM, 1999

Adjudication issued 2006