

***Ms Marina Palomba v Evening Standard***

Clauses noted: 5

Ms Marina Palomba of London complained to the Press Complaints Commission that an article published in the Evening Standard on 4 January 2006 headlined "Woman in death plunge from hotel window" was intrusive at a time of grief in breach of Clause 5 (Intrusion into grief and shock) of the Code. A further article headlined "City lawyer booked fourth-floor room 'ready for death leap'", published on 5 January 2006, repeated some of the information.

The complaint was not upheld.

The articles reported the suicide of a woman, who was unnamed in the first piece but identified in the second as Katherine Ward, who had jumped from a London hotel in view of onlookers and a passing photographer. The first article was accompanied by two photographs of Ms Ward: showing her standing on a ledge and then during the fall. The second republished the photograph of her standing on the ledge.

The complainant was a friend of Ms Ward, who complained that publication of the images was unnecessary. Initial publication had been before the death had been widely known, and before Ms Ward's identity had publicly been confirmed. 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 apologised for the distress caused by the publication of the photographs. When it published the photographs, it was aware that the identity of Ms Ward was known to police, and it therefore believed that family and friends would have been made aware of her death the previous day. The photographs themselves had been taken by an agency reporter, who had happened to witness the incident, and then released to the media. Given that they concerned an incident that occurred in a public place, and that they had already been published in The Sun, the newspaper decided to publish them as part of a news report of a tragic event in a part of London. They were not accompanied by sensational or over-descriptive language.

The complainant maintained that the newspapers 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 has already considered a similar complaint against the Sun, which was the first newspaper to publish the images. It found no breach of the Code in that instance. While the complaint against the Evening Standard was different in one important respect (see below), the decision remained that the complaint was not upheld.

As with the complaint against the Sun, 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 – in common with other newspapers – presented the photographs 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 in the Evening Standard had broken the news of the death to the victim's immediate family.

Firstly, the Commission noted that there was no evidence that any of Ms Ward's immediate family – who were apparently all abroad – had actually learned of her death through reading newspaper coverage of it. Indeed, in seeking to demonstrate that it had not thoughtlessly published the photographs regardless of whether the family of the victim were aware of the death, the newspaper pointed to the fact that it understood that the police had known the woman's identity when it published the piece.

That said, the Commission was concerned that the Evening Standard had made no further checks to establish unequivocally whether the family had, in the event, already been informed. In the Commission's view, its responsibility was greater than that of the Sun as one of the photographs it published (of Ms Ward on the hotel ledge) would have made her more clearly identifiable to those that knew her.

The newspaper had not demonstrated to the Commission's satisfaction that it had taken enough care before publication to establish that printing the picture would not have identified Ms Ward to her family. It had seemingly not made specific checks, but rather assumed from the fact that the police were aware of the woman's identity that the family must have known. In the event, the fact that publication did not lead to identification seemed to the Commission to be more a matter of luck than judgement. Greater steps should have been taken to verify the position before the decision to publish such a clear picture was made.

While it had been stated that the coverage revealed the news to some of her friends – something that, if true, was a matter of regret to the Commission – 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.

The Commission, taking into consideration all of the above, did not consider there to have been a breach of the Code raised by this aspect of the complaint.

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 offering 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