

A man v Northwich Guardian

Clauses noted: 6

A man complained to the Press Complaints Commission that a video published on the Northwich Guardian website on 14 July headlined "Teenagers torch moving train" and an article accompanied by images from the video published on 18 July headlined "YOBS ON FILM" identified his fifteen-year-old son in breach of Clause 6 (Children) of the Code.

The complaint was not upheld.

The newspaper's website carried a video which had been uploaded onto YouTube – a video-sharing website where users post their own video clips for the public to view – showing youths throwing fire bombs at a freight train and setting it alight. The printed edition published images from the video in a subsequent article.

The complainant said that in publishing images of his fifteen-year-old son – who had been involved in the incident which took place months previously – the newspaper had identified him on an issue that involved his welfare. He argued that the interests of the children who appeared in the video outweighed any public interest in showing it, and the newspaper should have pixillated their faces.

The newspaper said that the complainant's son had himself posted the video on the YouTube website, thereby making it available to the public. The newspaper had merely embedded the video on its own page, so that when it was removed from YouTube, it was automatically unavailable on the newspaper's website. It was in the public interest to publicise the incident, which was of a serious and anti-social nature. The youths had planned to carry out the attack, prepared their materials and selected their target and the community had a right to know about the incident.

The complainant said that the newspaper had published stills from the video after it had been removed from the YouTube website and therefore become unavailable to the public.

Adjudication

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. Such behaviour has never been considered to be private by the Commission, and the Code is not designed to shield people from scrutiny of it. 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.

Relevant rulings

Paschal Quigley v Zoo magazine, 2006

Adjudication issued 25/09/2007