

***Mr Brian Souter and his son v Scottish Sun***

Clauses noted: 6, 9

Mr Brian Souter and his son Scott complained to the Press Complaints Commission through Levy & McRae solicitors of Glasgow that an article headlined "Stagecoach son nicks dad's car", published in the Scottish Sun on 14 September 2007, was intrusive in breach of Clause 6 (Children) of the Code of Practice and identified Brian Souter in breach of Clause 9 (Reporting of Crime) of the Code.

The complaint was not upheld.

The article reported that Scott Souter had taken his father's car without permission and had subsequently pleaded guilty to driving without insurance or a licence. The offences had been committed – and the case heard in court – when Mr Souter was 15 years old. A week later, when he had turned 16, the newspaper published the story.

The complainants' solicitors said that the article had been intrusive and embarrassing for Scott Souter. Given that he was in his key year at school for Higher Grade examinations, the newspaper's actions in publishing the story amounted to a breach of Clause 6 (i). Moreover, it was clear that the story only appeared because Scott's father was a prominent figure. This meant there was also a breach of Clause 6 (v). Finally, said the complainants' solicitors, there was a breach of Clause 9 (i) of the Code of Practice because Brian Souter had been identified even though he was not genuinely relevant to the story.

The newspaper said that Scottish law permits newspapers to name criminals once they reach the age of 16 – whether or not their conviction occurs before their 16th birthday. It acknowledged that Scott Souter was in a key year of his schooling, but argued that his actions meant he had foregone the privacy rights normally afforded to people of his age. The newspaper denied that the story had been published solely because Brian Souter was well-known. It had been published because a 15-year-old had stolen his father's powerful car and had driven it the wrong way down a one-way street in a residential area. Brian Souter was the owner of the car and was inextricably linked to the story.

*Adjudication*

The Commission first considered the complaint under Clause 6. There was no dispute about the newspaper's legal right to report the case once Scott Souter turned 16. The issue for the Commission was whether the Code of Practice should be interpreted in a more restrictive way than the law, so as to protect young people from publicity about their criminal or anti-social behaviour.

Where it relates to published information, Clause 6 is designed to prevent intrusions into the private lives of children. This does not confer an entitlement to anonymity regardless of the subject matter of the story – which, in this case, concerned a court hearing at which the boy had pleaded guilty to an offence involving his father's car. An individual's criminal behaviour – however low grade – is not generally regarded as part of their private life deserving of protection under the Code of Practice. On the contrary, the Code says that there is a public interest in exposing crime. Particularly in circumstances where the information was made available as a result of court proceedings – which the paper was entitled to report – the Commission did not therefore conclude that there was any intrusion in breach of Clause 6 (i) of the Code. There was no breach of Clause 6 (v) of the Code for two reasons: first, there was clearly a justification for publishing the story other than the position of Brian Souter. That was the offence itself. Second, as outlined above, the subject matter did not concern the child's private life.

The Commission then turned to the complaint under Clause 9, which says that 'relatives or friends of persons convicted or accused of crime should not generally be identified without their consent, unless they are genuinely relevant to the story'. In this case, Brian Souter had owned the car which was taken and driven illegally by his son. His identity was therefore relevant to the court case and therefore, by extension, to the story published in the newspaper. There was no breach of Clause 9.

Adjudication issued 31/10/2007