

A woman v Leicester Mercury

Clauses noted: 6

A woman complained to the Press Complaints Commission that an article headlined "Tender arm of the law", published in the Leicester Mercury on 12 December 2009, contained a photograph of her daughter which was published without consent in breach of Clause 6 (Children) of the Editors' Code of Practice.

The complaint was upheld.

The article reported that a bus full of primary school children on a day trip had crashed into a low railway bridge. The complainant objected to the inclusion in the coverage of a photograph of her daughter, together with numerous other children, being comforted by a policeman at the scene of the accident. Her daughter had been pictured in a clear state of distress and the complainant had not been asked for her consent for the photograph to appear. The child had been further upset by the publication of the image.

The newspaper said that this was a serious accident in which there was a legitimate public interest. The children depicted in the photograph had not been injured and were all safe from further harm. The decision to publish the photograph had not been taken lightly: its main concern was the possible impact any use of the picture would have had on the children. The photograph had been taken on the street and had been unaccompanied by any private details of the children involved. It would also not have had an impact on the welfare of the children as it had appeared only in Leicester, outside their local area. It said that they would not have been embarrassed or distressed by the coverage.

Adjudication

Newspapers are entitled to publish stories and pictures of serious road accidents, which take place in public and often have wide-reaching consequences. In this case, it was not in doubt that the bus crash - which involved more than fifty schoolchildren - was a serious incident which raised important questions in regard to public health and safety. The Commission did not wish to interfere unnecessarily with the newspaper's right to report the matter, which it generally had done in a sensitive manner.

However, it was clear that the complainant had not given her consent for the newspaper to either take or publish the photograph which showed her daughter in a state of distress. The subject matter of the close-up photograph certainly related to her welfare.

There may be occasions where the scale and gravity of the circumstances can mean that pictures of children can be published in the public interest without consent. In the specific circumstances of this case, the Commission did not consider that there was a sufficient public interest to justify the publication of the image. It accepted that the newspaper had thought carefully about whether to use the photograph, but the Commission considered that it was just the wrong side of the line on this occasion. The complaint was therefore upheld.

Adjudication issued 18/03/2010