

**Malcolm Stamp OBE v Essex Chronicle**

Clauses noted: 8

Malcolm Stamp CBE, Chief Executive of Mid Essex Hospital Services NHS Trust, complained to the Press Complaints Commission that an article headlined "Victim of attacker 'lucky to be alive' after coma ordeal", published in the Essex Chronicle on 3 February 2011, contained material that had been obtained in breach of Clause 8 (Hospitals) of the Editors' Code of Practice.

The complaint was upheld.

The article reported on the condition and treatment of a patient in hospital who was recovering from an assault which had left him with serious head injuries. It was based on an interview with him and his parents, conducted in the hospital's stroke unit. The reporter had visited the hospital in the company of the parents. The Commission has not received any complaint from the patient or his family in relation to the article.

The complainant said that the reporter had not notified the Trust, nor any of its staff, of his identity as a journalist or the purpose of his visit before publication, in breach of Clause 8 of the Code. The Trust's policy was that stories should be requested through the communications team and should be pre-arranged, particularly in relation to vulnerable patients. The Health Care Support Worker who had supervised the visit said that she had asked the reporter who he was and the patient's father had replied that he was "from the Court". At no point, she said, did she feel that any interview was in progress (she had not seen any notepad or recording equipment, for example); the reporter had simply asked how the patient was. The Senior Ward Sister stated that the patient had been unaware that he had spoken to a journalist and had been "upset and angry" when alerted to the article by staff at the hospital.

The newspaper denied that its reporter had breached the terms of Clause 8: he had been invited to see the patient in hospital by his parents who were keen for an article to be published about the effects of drunken violence. It believed that the patient had provided his consent. The newspaper denied that the journalist had introduced himself as "from the Court": he had made clear to nursing staff his status as a journalist and identified the publication he worked for. The newspaper disputed the veracity of the statements provided by the staff, making clear that the reporter had conducted a relaxed interview with the patient and had indeed carried a camera (which he had not used) in addition to using a notepad. A nurse had been present throughout the time he had spent with the patient, and another member of staff had given advice to the reporter on how the case should be reported. In the view of the newspaper, ward nurses were "responsible executives" of the hospital: they were in charge of managing day-to-day matters on the ward. The newspaper offered an assurance that it would coordinate future visits through the hospital's communications department.

*Adjudication*

The Commission had not received a complaint from the patient in relation to the publication of the article. It noted that the reporter had been present not only with the consent, but actually at the request of, the patient's parents. There was clearly a public interest, albeit a general one, in publishing information about the consequences of violence.

However, Clause 8 states that "journalists must identify themselves and obtain permission from a responsible executive before entering non-public areas of hospitals or similar institutions to pursue enquiries". In this case, the Commission considered that the stroke unit was a "non-public area" because it was an area where patients would have a reasonable expectation of being treated without interference. There was clearly a significant dispute over what had occurred during the visit to the hospital, and the Commission was not in a position entirely to resolve this conflict of accounts. However, it was nonetheless able to establish a breach of the Editors' Code on this occasion.

It is the responsibility of newspapers to demonstrate that they have abided by the terms of the Editors' Code. In the view of the Commission, the reporter could have acted to ensure that there was no uncertainty about his identification, and that the necessary permission had been obtained from a "responsible executive", before entering the unit where the patient was being treated. This could have been achieved, for example, by asking at reception at the beginning of the visit to speak to a relevant executive, or approaching the hospital in advance. Bearing in mind that the patient was in an especially vulnerable condition, the onus was on the reporter to ensure that he was open about his status with the hospital.

As it was, the conversation in which the journalist had allegedly identified himself had been with staff in the unit; he appeared, therefore, to have already entered a non-public area. Under the terms of Clause 8, appropriate permission should have been sought well before entering this area. The Commission did not believe a reporter speaking to medical staff (whom he was not able to identify by name or position), while already in the unit, was adequate in light of the requirements of Clause 8.

The Commission did not consider that the general public interest in this case was sufficient to justify the manner in which the material had been obtained. The complaint was therefore upheld.

Relevant rulings

Croft v Daily Mail, 2006

O'Sullivan v Daily Mirror, 2001

Adjudication issued 26/08/2011