

Mr M J Bretherick v County Times

Clauses noted: 3, 5, 10

Mr M J Bretherick of Welshpool complained to the Press Complaints Commission that an article headlined "Indecent child images – cop charged" published in the County Times on 1 February 2007 intruded into his private life in breach of Clause 3 (Privacy) and contained a photograph of him which had been obtained in breach of Clause 10 (Clandestine devices and subterfuge). The complainant also raised concerns under Clause 5 (Intrusion into grief or shock).

The complaint was not upheld.

The complainant was a serving police officer who had been charged with possessing indecent images of children. He said that a reporter from the newspaper had signed up to a Live Medieval Roleplay community website – of which he was a member – and had engaged other members in conversation about him under a false identity. A photograph of the complainant was then taken from the website and used in the newspaper without his consent. The complainant argued that the photograph was not in the public domain and that the newspaper had removed it in breach of Clause 10.

The complainant was also concerned that the newspaper – when it initially reported his arrest in March 2006 – had published his full address. He believed that this intruded into his privacy. As a result of such coverage, the complainant said that his parents, especially his mother, were suffering psychologically. The newspaper's reporting of the matter therefore, in his view, raised a breach of Clause 5.

The newspaper said that any member of the public could access the website concerned merely by logging on and joining as a member. The reporter did this and downloaded the picture of the complainant. In any case, the publication of the photograph was in the public interest in the circumstances.

The newspaper did not consider the publication of the full address to represent an intrusion into the complainant's private life. This was its normal practice. Its reporter had called at the complainant's property at the time and had spoken to his parents to confirm the address. The newspaper said that it would be prepared to omit the complainant's house number from any future reports together with removing the offending photograph from its files. It did not accept any breach of Clause 5.

The complainant wanted the newspaper to publish an apology in addition to accepting that the Code had been breached in relation to the manner in which the photograph had been obtained.

Adjudication

Clause 10 states that the press must not seek to obtain or publish material acquired by the unauthorised removal of documents or photographs. On this occasion, the reporter had not physically removed the photograph in question, but rather accessed it from a website which could be joined by any member of the public. No evidence had been submitted that there was a prohibition on downloading material by members. In any case, the Commission considered that the newspaper was pursuing a story that was legitimately in the public interest, given that a serving policeman had been charged with a serious offence. This offered sufficient justification for the manner in which the photograph had been obtained.

On the more general issue of subterfuge, it was not in dispute that the reporter had concealed his identity when joining the website. However, such action amounted to little more than signing up to a website using a different name. The Commission considered that the public interest justification, to

which it referred above, offered a defence for this level of subterfuge, which was not – in the Commission's view – of particularly serious order.

The Commission then turned to the publication of the complainant's address. It had been published in full at the time of his initial arrest in March 2006 and in part in the most recent article under complaint. The Commission made clear that newspapers are generally entitled to include details of a person's address in reports of criminal cases against them, not least because addresses are likely to be given in open court. There is also a general public interest in the identification of individuals who have been charged with criminal offences. Correct identification will often involve the publication of at least a partial address. Given the circumstances of the case, the inclusion of the complainant's address by the newspaper did not raise a breach of Clause 3 of the Code.

Turning finally to the complaint under Clause 5, the Commission emphasised that this part of the Code is designed to prevent intrusive enquiries and insensitive reporting at times of grief or shock. The newspaper's coverage of the complainant's arrest and the formal charges against him did not fall into either of these categories and therefore raised no breach of this Clause.

But the objection raised an interesting point concerning the impact on the complainant's mother, with whom he lived, of the publicity surrounding the charges. This point about the effect of publicity on associates of people in the news is made to the Commission from time to time. In this case, while the Commission sympathised with her position, it could not accept that her vulnerable state entitled the complainant to greater privacy rights than those enjoyed by others in his position. The story concerned the complainant and not his mother, whose privacy was not therefore an issue for the Commission to consider under the Code. Concluding that the impact on his mother was a reason for finding an intrusion into the complainant's privacy would have created a precedent entitling anyone accused of inappropriate behaviour to avoid public scrutiny by claiming that the publicity would make an innocent relative more vulnerable. Such a move would cause an unnecessary restriction on the free flow of information that is a feature in open societies.

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