

St Andrew's Healthcare v The Echo (Basildon) / Daily Gazette

Clauses noted: 1, 10

St Andrew's Healthcare complained to the Press Complaints Commission through Morgan Cole Solicitors that an article headlined "Why weren't we warned?", published in both The Echo and the Daily Gazette on 30 September 2009, contained inaccuracies and was based on material acquired by the unauthorised removal of documents in breach of Clause 1 (Accuracy) and Clause 10 (Clandestine devices and subterfuge) of the Editors' Code of Practice.

The complaint was not upheld.

The article reported that a patient at a mental health residential facility - who had absconded for eight days after a supervised shopping trip, but had subsequently been recovered - had been described in confidential police and medical documents as "dangerous" and an "intelligent, devious, uncontrollable, absconding sexual predator" with a "long history of sexual violence". At the time of the escape, an earlier article had prominently reported that the police did not have any information to suggest he was a danger to the public. The complainant is the mental healthcare charity that runs the residential facility.

The complainant said that the newspapers had obtained the information through the unauthorised removal of documents relating to the patient. There had been no possible risk to the public at the time the article was published (given that the patient had been returned to the facility) and, as such, the publication of the information could not be justified in the public interest. The article had also inaccurately referred to the content of one of the documents, attributing to a named source the view that the patient was not suitable for residential care (when in fact he had ascribed that view to "some partners") and suggesting that the reference to the patient's suitability for residential care would apply to the facility in question, which was not the case.

The newspapers said that they had not physically removed any documents from the hospital; rather, they had received the information from an anonymous informant following the publication of the original story. There was no suggestion that subterfuge had been used to obtain it. Given that they had unknowingly misled their own readers when publishing an assurance that the patient had posed no danger to the public, they had a duty to inform their readers of the position accordingly, which could only be done with reference to the contents of the documents. Furthermore, the article raised an issue of clear public interest. The public was entitled to know the views of doctors and the police as to the potential danger posed by the patient, regardless of whether he had returned to the hospital. The fact that the patient had gone missing was a serious concern locally, and three MPs had commented critically about what had happened.

The newspapers said that the claims of inaccuracy were slight. There was nothing to substantiate the interpretation that it had not referred accurately to the type of facility in question, which, on its own website, said that it was an ordinary residential facility with an "enhanced low secure setting". The newspapers were willing to publish a letter from the complainant.

Adjudication

There is a distinction to be made between a newspaper seeking to obtain confidential information using subterfuge and it being provided with material in an unsolicited manner. On this occasion, the newspaper had not actively sought the information in relation to the patient, which had been leaked anonymously. However, the material had been provided without authorisation and the newspaper had made use of it in the article. In such an instance, the newspaper had to demonstrate a sufficient public interest justification for publishing the information.

The Commission was strongly of the view that the publication of the information was justified in the public interest. The unsupervised presence in the community of an individual who had been described in the terms outlined in the documents, and had been compulsorily admitted into care, was a legitimate subject to be reported. It did not cease to be relevant simply because the patient had been readmitted, not least owing to the fact that the patient had absconded on numerous occasions and that his absence raised serious concerns about policy and practice in the facility. Three local MPs had specifically voiced these concerns in the published article. There was no breach of Clause 10.

The complaints under Clause 1 were relatively minor matters, which would not have misled readers in any significant way, or in such a manner which would raise a breach of the Code. The Commission welcomed the offer of a letter for publication, which adequately addressed the concerns raised by the complainant.

Adjudication issued 08/04/2010