

## Section Three: Intrusion

### INTRUSION INTO GRIEF

# Sense and sensitivity

Journalism is an occupation conducted on the front line of life and, too often, of death. But while tragedy and suffering may go with the journalistic territory, insensitivity for its victims should not. The Code's strictures on intrusion into grief or shock are designed to protect those victims at their most vulnerable moments.

Newspapers have a job to do at such times and most do it well. It is a myth that approaches by the press are inherently intrusive. Reporters making inquiries sensitively are often welcomed by the bereaved, who see an obituary or story as a final public memorial, and they would prefer the facts to be given first-hand.

Also, as deaths are a matter of public record, the information is in the public domain and newspapers have a right to publish. Again,

a balance has to be struck. The key, as expressed by the Code, lies in making inquiries with *sympathy and discretion* and in *publishing sensitively*.

That does not mean newspapers should not publish sensitive material; it means that they should not do so insensitively. Nor does it amount to a ban on covering tragic stories unless all parties consent, as the PCC made clear in an adjudication in 2005 when it gave examples of some of the elements likely to constitute a lack of sensitivity in publication. They were:

- *The use of gratuitously gory information in pictures or stories at a time of grief;*
- *Unnecessarily ridiculing the manner of death;*
- *Publishing a picture showing the subject engaged in obviously private, or embarrassing, activity.*

The Commission was adjudicating in a case where a picture of a woman missing in the 2004 tsunami appeared in a national tabloid against her family's wishes. The father's request that no photograph of his daughter be used was not passed on, due to a miscommunication, and an image from a website was published.

While regretting the lapse in communications, the PCC ruled that publication of an innocuous image — obtained from a public resource such as the internet — of someone caught up in such a shocking event was not insensitive. (*The family of Alice Claypoole v Daily Mirror: Report 71, 2005*).

#### THE CODE SAYS...

#### Clause Five — Intrusion into grief or shock

*i) In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. This should not restrict the right to report legal proceedings, such as inquests.*

*ii) \*When reporting suicide, care should be taken to avoid excessive detail about the method used.*

\* A public interest exemption may be available: [See Section Six](#)

In a similar case, a widow complained about an evening newspaper's coverage after her husband was killed in a boat disaster. One story, headlined *Shattered Lives And Lost Dreams*, projected the feelings of her two-year-old son. Another — using information and a picture of mother and son supplied by the grandparents — revealed against her expressed wishes that she had since given birth to a daughter. The PCC, while sympathising with the widow's distress, felt the newspaper's attempts to illustrate the human consequences of tragedy were not inherently insensitive. Although the widow had not wanted publicity for the birth of her baby, there were competing rights of others to speak to the media, and for the public to receive information. (*Grady v Evening Courier, Halifax: Report 73, 2006*).

**Breaking the news:** The Commission has upheld a newspaper's right to publish a story as soon as the death is confirmed, but not before. *The PCC sees it as no part of the journalist's role to inform close relatives or friends of the death.*

A complaint from a mother who read about her daughter's death — ahead of positive identification — in a story headlined *Body-in-Bath Probe* was upheld. The mother had still been hoping it was not her daughter. The Commission said the newspaper should have checked that the family knew before publishing. (*Oliver v Manchester Evening News: Report 43, 1998*).

The PCC upheld a similar complaint from parents whose first intimation that their missing son was dead came from a reporter. (*McKeown v Newcastle Evening Chronicle: Report 40, 1997*).

But, while expressing sympathy, the Commission rejected a complaint from a widow whose husband's tragic death was reported the same day, before his parents knew or the facts were established. The PCC said the story, which presented some details of the incident as conjecture, was otherwise a straight-forward report of the death of a leading local figure. (*Thornhill v News and Star: Report 55, 2001*).

It also ruled that a newspaper that broke the news to neighbours of the death of a toddler through meningitis did not breach the Code. It was an important matter of public health and legitimate for a paper to seek comment from local people who were not relatives of the child. (*Maude v Derby Evening Telegraph: Report 42, 1997*).

**Insensitive or unnecessary detail** (*See also Reporting Suicide, below*): A magazine that staged a mock-up of a murder scene and published the picture — with a headshot of the victim — on the anniversary of the death trampled through both the 'sensitivity' and accuracy rules. It was not made clear that the picture of a female body wrapped in bin liners, which caused much distress, was actually a reconstruction, based on the court reports of the murder. The PCC condemned the magazine's "cavalier approach", aggravated by the timing of publication, which had shown a total disregard for the victim's family. (*A man v Chat magazine: Report 76, 2007*).

A woman claimed a local newspaper's story about her brother's death following a collapse at home — headlined *Starving Pet Starts To Devour Pensioner* — was distressing and sensationalist. The PCC agreed, rejecting the editor's claim that the story was handled sympathetically. (*Yeoman v Rhondda Leader: Report 65, 2004*). It ruled that the story was not sufficiently sensitive, bearing in mind that it was published immediately after the death and neither the funeral nor the inquest had taken place. The complaint was upheld — as was a similar case in which parents complained about 'cruel' references to their son's "guts hanging out" in a report on his death. The editor regretted the excessive detail. (*Harvey v Rochdale Observer: Report 45, 1999*).

The Commission ruled that it was not necessary to identify a father who twice in two years lost a newborn baby at the same maternity unit. The man, who had also lost his previous partner in the earlier tragedy, agreed there was a public interest in apparent problems at the hospital, but believed the second baby death was a

personal matter and it was insensitive to name him or the dead child. The PCC agreed that the public interest would have been served just as well without naming the family and upheld the complaint. (*A couple v Esher News: Report 61, 2002*). (See also *Section Six, Public Interest*).

**Photography at funerals** *without consent* usually involves a balance of sensitivity versus publication in the public interest. But a Sunday paper's picture of a boy of 14 at the funeral of his father, an asylum seeker who killed himself in a detention centre, raised wider issues. The story, headlined *The Ultimate Sacrifice*, included a CCTV image of the father at the detention centre with a sheet tied around his neck, and an extract from a suicide note — addressed to, and featuring, the son. The CCTV pictures had been shown at the inquest, but the boy had been unaware of them.

His solicitors claimed this was unnecessarily intrusive and amounted to 'excessive detail' of the suicide method under Clause 5. Also, the funeral picture was taken without proper consent when the boy had a reasonable expectation of privacy (*Clause 3*); affected his welfare as a child; and was published only because of his association with his father (*Clause 6*).

The lawyers said the boy should expect a suicide note addressed to him to be private: any public interest in the story could have been served by omitting his name and the pictures.

The complaint was rejected on all counts. The PCC said the sensitivity rule did not provide automatic anonymity for those affected by tragedy, especially where they were central to it. The story had legitimate public interest and the CCTV pictures were relevant because of the inquest and raised no issues under the 'excessive detail' rules. While the funeral picture was taken without formal consent, the Commission accepted that that newspaper had not known this and relied on the fact that it had been published elsewhere. An offer to delete it from the file was a proportionate response. (*A boy v The Sunday Times: Report 74, 2007*).

By contrast, the funeral of TV personality Carol Smillie's mother was not a public event and a Sunday newspaper's prominent coverage of it was an intrusion, the Commission ruled. The paper's photographers had been asked to leave the funeral, but ran a three-page story using a freelance's pictures taken with a long lens at the crematorium. The PCC said the newspaper knew it was a time of grief and that photographers were unwelcome. The prominence given to the article added to its insensitivity and the result was a breach of the Code. (*Smillie v Sunday Mail: Report 50, 2000*).

**Humorous or insensitive reports:** Although the Code does not cover the privacy of the dead, a critical obituary in the *British Medical Journal*, describing a doctor as "the greatest snake-oil salesman of his age", brought a complaint from the man's family. The PCC said it was not unacceptable to publish criticisms of the dead — but that the sensitivity of the family had to be taken into account. No adjudication was necessary as the editor offered to publish an apology for the distress caused. (*Kelliher v British Medical Journal: Report 63, 2003*).

A magazine which ran a jokey student guide to suicide fell foul of the Code when it referred flippantly to two unconnected student deaths, one of which happened only months earlier. The PCC ruled that for the two tragedies to be treated with gratuitous humour was a serious breach of the Code. (*Napuk and Gibson v FHM: Report 48, 1999*).

**Timing:** While timing can add to the insensitivity, each case is decided on the circumstances. The PCC has upheld a claim of insensitive publication more than a year after the death.

## REPORTING SUICIDE

The rule introduced in 2006 (*See Briefing*) requiring care to be taken to avoid 'excessive detail' of suicide methods followed a powerful submission by the Samaritans to the Code Committee highlighting

the risk of imitative acts. In fact, it codified a practice already followed by many editors.

It meant, for example, that while it might be perfectly proper to report that death was caused by an overdose of Paracetamol, it would probably be excessive to state the number of tablets used. Exceptions could be made if editors could demonstrate that publication was in the public interest.

As the aim is to avoid copycat acts, the rule would — under the spirit of the Code — apply to reporting attempted suicide and to any article appearing to glamorise suicide. The PCC has indicated it will accept complaints from third parties, as well as from close families or friends.

**Tougher than the law:** The Commission used its first adjudication under the new sub-clause to make clear that, while newspapers were entitled to report on proceedings such as inquests, the Code's requirements were over and above those allowed by the law. It ruled that newspaper reports of an inquest into the death of a teacher who had electrocuted himself contained too much detail about the method.

"Inquests are held in public and newspapers are free to report their proceedings," said the PCC, "but to abide by the terms of the Code — which sets out standards over and above the legal framework — the papers should on this occasion have been less specific about the method used." (*A woman v Wigan Evening Post: Report 76, 2007*).

In that case, the complainant was the dead man's widow. But consent from a relative would not necessarily absolve editors from responsibility under the 'excessive detail' rule. The PCC accepted a third party complaint that a magazine article contained too much detail, even though it was written by the sister of a man who had taken his own life. The case was resolved without going to adjudication. (*Brown v She magazine: Report 77, 2008*).

**Graphic images:** Photographs depicting the act of suicide would not contravene the rules requiring sensitivity in publication, if they involved only subjective matters of taste, which are outside the Code. But risks of a breach could arise if the pictures broke the news of the death to the families; or contained excessive detail of the method used; or could be taken to glamorise suicide.

In 2006, before the introduction of the 'excessive detail' clause, three newspapers published pictures of a woman who threw herself from the fourth floor of a London hotel in front of a crowd gathered below. The PCC ruled that the simple fact of publishing pictures of what was a public incident did not, in itself, constitute a failure to be sensitive.

That did not mean the press was free to publish the pictures in an insensitive manner — for example, by making light of the incident, publishing unnecessarily explicit details, or presenting the images in a gratuitously graphic way. The newspapers had not done that, and the complaints were not upheld. (*Palomba v The Sun: Report 72, 2006*); (*Palomba v Evening Standard: Report 72, 2006*). (*Petetin v The Times: Report 72, 2006*).

The PCC accepted complaints from the Scottish NHS that graphic images of a girl involved in a suicide attempt in Germany, published by two UK tabloids, would have encouraged copycat acts. The complaints were resolved without going to adjudication. (*Choose Life v The Sun: Report 77, 2008*); (*Choose Life v Daily Star: Report 77, 2008*).

Graphic imagery of another kind was the subject of a complaint by Mrs Madeleine Moon MP, representing relatives of young people who hanged themselves in a spate of suicides in and around her constituency in Bridgend, South Wales (*See also Page 41*). She claimed a Sunday paper's presentation in May 2008 of an otherwise balanced and well-researched piece was insensitive and could have encouraged copycat cases in that it showed photographs of those who had died juxtaposed with a large picture of a noose under the headline *Death Valleys*. The newspaper, while accepting that

## KEY QUESTIONS

- Did journalists break the news of the death to close relatives?
- Were insensitive and unnecessary details published about the death?
- Were photographs taken at a private funeral without consent?
- Were humorous or insensitive obituaries or reports of death published?
- Were the details of the method used to commit suicide excessive?
- Was the coverage likely to glamorise suicide?

relatives might have been upset, said the whole point of the presentation was to highlight the apparent happiness of the young people with the harsh reality of what they had done, and had dramatically portrayed that without glamorising suicide.

The PCC ruled that, given the massive national and international coverage identifying hanging as a common feature of the deaths, the use of the noose picture to depict a serious and sensitive article was not excessive detail, and was not insensitive within the Code. The complaint was not upheld.

However, the Commission acknowledged that the pictures would “be an upsetting and stark reminder to the families about how their relatives had died”, and regretted the distress caused. The PCC also drew attention to a private advisory note it had issued alerting editors to a request from some of the families that photographs of their relatives should not be used in future stories about Bridgend. (*Moon MP v Sunday Times, Report 78, 2008*).

**Glamorising suicide:** The PCC takes a dim view of reports that trivialise tragedy and has made clear that they can breach the rules requiring *sensitive publication*. However, when the *Daily Sport* published a list to Britain’s most popular suicide ‘hotspots’, headlined *The Top Yourself 10*, the Commission ruled that it had breached the rules on *excessive detail*. A Scottish NHS official complained that vulnerable people might be encouraged to visit the places shown and take their own lives. The newspaper claimed the article was fair,

balanced and based on information already in the public domain. But the PCC said that, while articles investigating the pattern of suicides are usually acceptable, this “entirely gratuitous” guide stated explicitly a number of options about how and where to attempt suicide. It was clearly excessive in the context.

Also, the light-hearted presentation of the piece could have glamorised suicide for some people, thus further breaching the Code, which is designed to minimise the risk of imitative acts. (*Choose Life v Daily Sport: Report 77, 2008*).

## KEY RULINGS

- The family of Alice Claypoole v *Daily Mirror* (Report 71, 2005).
- Grady v *Evening Courier, Halifax* (Report 73, 2006).
- Oliver v *Manchester Evening News* (Report 43, 1998).
- McKeown v *Newcastle Evening Chronicle* (Report 40, 1997).
- Thornhill v *News and Star* (Report 55, 2001).
- Maude v *Derby Evening Telegraph* (Report 42, 1998).
- A man v *Chat* magazine (Report 76, 2007).
- Yeoman v *Rhondda Leader* (Report 65, 2004).
- Harvey v *Rochdale Observer* (Report 45, 1999).
- A couple v *Esher News* (Report 61, 2003).
- A boy v *The Sunday Times* (Report 74, 2007).
- Smillie v *Sunday Mail* (Report 50, 2000).
- Kelliher v *British Medical Journal* (Report 63, 2003).
- Napuk and Gibson v *FHM* (Report 48, 1999).
- A woman v *Wigan Evening Post* (Report 76, 2007).
- Brown v *She* magazine (Report 77, 2008).
- Palomba v *The Sun* (Report 72, 2006).
- Palomba v *Evening Standard* (Report 72, 2006).
- Petetin v *The Times* (Report 72, 2006).
- Choose Life v *The Sun* (Report 77, 2008).
- Choose Life v *Daily Star* (Report 77, 2008).
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- Moon MP v *Sunday Times* (Report 78, 2008).

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## Suicide: a sensitive issue

Suicide has always been covered by the Code's rules on intrusion into grief, stressing the need for sympathy and discretion and sensitivity in publication. But there is a dimension to reporting suicide that sets it apart from other tragedies: the inherent risk of 'social contagion'.

Research has demonstrated that media portrayals of suicide — as in news reports or fictional TV or films — can influence suicidal behaviour and lead to multiple imitative acts, particularly among the young. Instances of self-poisoning increased by 17% in the week after it was featured in a TV drama.

In 2006, faced with real evidence that over-explicit reporting could lead to copycat cases, the Code Committee introduced a new sub-clause: *When reporting suicide, care should take to avoid excessive detail of the method used.* So editors face a twin test: they must both publish with sensitivity and avoid excessive detail. (See Page 38)

### The Bridgend experience

A series of more than 20 suicides of young people in and around Bridgend in South Wales thrust all this into the spotlight. Some politicians, police and parents blamed media speculation about possible links between the deaths for possibly triggering later cases.

A PCC survey revealed a complex web of public anxieties in Bridgend that often went far beyond the scope of press self-regulation, embracing concerns about broadcasters and foreign media, and sometimes involving wider societal issues. These apart, the picture that emerged was less a case of repeated individual breaches of the Code, than a cumulative jigsaw effect of collective media activity, which became a problem only when the individual pieces were put together.

While the Code covered many public concerns, it was clear that others might be more appropriately — and effectively — addressed not by over-prescriptive rules but by editors modifying their activities voluntarily.

### Important areas of public concern where the Code already applies include:

- **Graphic images** illustrating suicide methods were often upsetting to relatives and friends. *Under the Code, such images would normally have to pass the 'excessive detail' test.*
- **The cumulative effect** of repeated media inquiries to family members also caused unintended distress. *Here, too, the PCC can help by passing on 'desist' messages via its arrangements for handling media scrums.*
- **Glorification of suicide:** Stories presented in a way likely to romanticise suicide could have a serious influence, especially on vulnerable young people. *But, within the spirit of the Code, most coverage of this sort would again risk breaching the 'excessive detail' rule.*

### Possible areas where editors might voluntarily mitigate the effects of legitimate publicity include:

- **Helpline numbers:** When reporting the Bridgend deaths, many newspapers voluntarily published contact details of charities that work with people with suicidal feelings. This was widely welcomed as directing those most at risk — especially vulnerable young people — into the arms of those who could offer them most help.
- **Republication of photographs:** Each new death often prompted reprinting of images of others who had taken their own life, adding to families' distress. Sometimes it might be necessary, others not.
- **Publications of photographs without family consent:** Using pictures supplied by friends or from social networking sites, without the close family's consent, can cause unintentional distress.

**There can be no hard rules in such subjective areas. These and similar measures can only be discretionary. But the lessons of Bridgend are that, by bearing them in mind, editors faced with difficult judgments at critical times could avoid causing unintended offence or exposure to accusations of insensitivity.**

## Section Three: Intrusion

### CHILDREN

## Children: Treat with care

The Code goes to exceptional lengths to safeguard children by raising the thresholds on disclosure and defining tightly the circumstances in which press coverage would be legitimate.

For the most part, this applies up to the age of 16 — but the requirement that they should be free from unnecessary intrusion at school provides a measure of protection into the sixth-form.

### THE CODE SAYS...

#### Clause Six — Children\*

- i) *Young people should be free to complete their time at school without unnecessary intrusion.*
- ii) *A child under 16 must not be interviewed or photographed on issues involving their own or another child's welfare unless a custodial parent or similarly responsible adult consents.*
- iii) *Pupils must not be approached or photographed at school without the permission of the school authorities.*
- iv) *Minors must not be paid for material involving children's welfare, nor parents or guardians for material about their children or wards, unless it is clearly in the child's interest.*
- v) *Editors must not use the fame, notoriety or position of a parent or guardian as sole justification for publishing details of a child's private life.*

\* A public interest exemption may be available: [See Section Six](#)

In the majority of cases, children under 16 cannot be approached at school, or photographed or interviewed about their own or another child's welfare, or offered payment unless consent is forthcoming from the suitable responsible authority, be it the parent, guardian, school, or other responsible adult.

The welfare of the child includes the effect publication might have. A complaint from an asylum seeker who had been given two homes to accommodate his 15 children was upheld after a newspaper interviewed and identified some of them.

The PCC said the article was likely to provoke a strong reaction in readers, which might affect the children's welfare. (*Kenewa v Sunday Mercury: Report 50, 2000*).

**Questions of consent:** The press has to establish which is the competent authority to grant consent in each case. A photograph taken of a boy on school property broke the rules even though his mother had approved it. The school authorities had not been asked. (*Brecon High School v Brecon and Radnor Express: Report 57, 2002*).

Similarly, a newspaper's "informal" approaches to pupils on their way to a school where there had been suicide attempts were ruled as a breach. (*Black v Bedfordshire on Sunday: Report 43, 1998*).

When a Scottish weekly newspaper published a schoolgirl's mobile phone video of unruly class-mates, the school complained that no consent had been sought. The newspaper claimed it was in

## BRIEFING

### Complaints about court reporting

It may be a cardinal rule that justice should be seen to be done, but the PCC receives complaints about [court reporting](#). The most common relate to:

- **Privacy:** Complainants — often defendants — argue that the report of a case in which they were involved intruded on their privacy. The PCC upholds the right to publish fair, accurate and contemporaneous reports of proceedings and would act only if complainants could demonstrate a breach of this principle.
- **Inaccuracy:** If any significant inaccuracy is demonstrated in a completed or current case, the PCC raises the complaint with the editor with the request that it be resolved by a printed correction. Such complaints are usually resolved or disproved.
- **Lack of balance:** Complainants suggest reports highlight the prosecution case, with inadequate space given to either the defence case or an acquittal verdict. No complaint has been of sufficient gravity to warrant a PCC investigation.

the public interest to demonstrate poor supervision of the pupils, all of whom were over 16.

The PCC agreed it was legitimate to use the video material to spotlight classroom conditions — but it was not necessary to identify the pupils. It upheld the complaint against the weekly newspaper, but rejected complaints against two national tabloids that had used the material without identifying the students. (*Gaddis v Hamilton Advertiser: Report 75, 2007*); (*Gaddis v Scottish Daily Mirror: Report 75, 2007*); (*Gaddis v Scottish Sun: Report 75, 2007*).

There was no question of parental consent when a topless photograph of a 14-year-old girl appeared in a lad's magazine's gallery of mobile phone shots sent in by readers. The magazine's defence that the girl looked older and that they believed her to be living with the person who submitted the picture, did not impress the PCC. It said the magazine had not taken adequate care to establish the provenance of the photograph or whether it was appropriate to publish it. (*A couple v FHM magazine: Report 75, 2007*).

A local newspaper fell into a similar trap when it publicised a charity event while relying solely on information from the fundraiser. It pictured a 16-year-old boy and a girl of 14, saying they were both seriously ill and that the girl suffered from a muscle-wasting disease.

But the girl's mother said the paper had ignored her request to contact her prior to publication. In fact, her daughter was not seriously ill and was only giving moral support to the boy, who was her cousin. The PCC upheld her complaints of intrusion into a child's privacy and inaccuracy. (*A woman v Kent Messenger: Report 70, 2005*).

**Implied consent:** A father complained when Zoo magazine published, without consent, a photograph of him and his 10-year-old daughter making offensive gestures on the terraces of Old Trafford following Chelsea's defeat to Liverpool in the FA Cup. The father said the picture ridiculed his daughter and should have been pixillated.

The PCC decided that while the father had not actively consented to the picture, he and his daughter were making anti-social gestures at a major sporting event in front of the mass media. It was not unreasonable to assume he was unconcerned about publication. Consent was therefore implied. The complaint was rejected. (*Quigley v Zoo magazine: Report 73, 2006*).

**Payment to children:** Even where consent is forthcoming, there could be pitfalls — especially if money is involved. The Code puts an obligation on the press not to make payments to minors — *or their parents* — unless it is clearly in the child’s interest.

Technically, this could mean that a payment to an unscrupulous or greedy parent, if it were demonstrably not in the child’s interest, would be a breach.

**Children of the famous:** The rules apply equally to children of parents from all walks of life. The rule that made it a breach for a 15-year-old Accrington boy to be approached by a reporter at school (*Livesey v Accrington Observer and Times: Report 30, 1995* — see *note in margin*) was used to protect Princes William and Harry at Eton.

While the Princes are public figures in their own right — and therefore must expect appropriate publicity — the same is not true of the children of most other public figures, who are entitled to normal levels of privacy.

The Code therefore stipulates that the celebrity or notoriety of the parent cannot be *a sole justification for publishing details of the private lives of children*.

Tony and Cherie Blair complained about a story containing allegations that their daughter Kathryn was receiving special treatment by obtaining a place in an elite school. The PCC said there was no public interest in making Kathryn the centre of the story, particularly as no misdemeanour had been proved. (*Blair v Mail on Sunday: Report 47, 1999*).

A story revealing that Euan Blair had applied for a place at Oxford University was also ruled to be an unnecessary intrusion, with no exceptional public interest. (*Blair v Daily Telegraph: Report 57, 2002*).

But a national tabloid’s story about former Education Secretary Ruth Kelly sending one of her children to a private school for pupils with learning difficulties did pass the PCC’s public interest test.

In an attempt to concentrate on the legitimate public debate about a Minister removing her child from the state education system, the newspaper had named Ms Kelly but not revealed the name, sex or age of the child, nor identified his new school. The story was about the parents — one of whom had been responsible for national education policy — and not the child. The complaint was rejected. (*Kelly v Daily Mirror: Report 74, 2007*).

**Sheltered lives:** The extent to which parents keep children out of the limelight should also be taken into account. The PCC has said it is difficult to protect any individual once they begin to acquire a public profile in their own right.

The author J. K. Rowling had gone to great lengths to protect the privacy of her eight-year-old daughter, who was nonetheless pictured in a magazine while on a private beach on holiday. The complaint was upheld because the unsolicited publicity would affect the child’s welfare and the picture was published only because of the fame of her mother. (*Rowling v OK! Magazine: Report 55, 2001*).

**Pictures which do not need consent:** However, not all pictures of children need consent — only those that *involve the welfare of the child, or which are taken in a private place*. The PCC has ruled that mere publication of a child’s image cannot breach the Code when it is taken in a public place and is unaccompanied by any private details or material that might embarrass or inconvenience the child, which is particularly unlikely in the case of babies or very young children.

● Cases adjudicated before 1996 are available in hard-copy format from the PCC on application to Tonia Milton, Information and Events Manager, on [tonia.milton@pcc.org.uk](mailto:tonia.milton@pcc.org.uk)

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A magazine picture of a toddler in a pushchair in a public street was acceptable as it was an innocuous image, devoid of personal details other than a forename. (*Donald v Hello magazine: Report 52, 2000*).

**Court reports:** The PCC has ruled that the privacy of children is an area where the Code's constraints *may be tighter than those imposed by law*. It upheld a complaint from a woman whose evidence in open court mentioning the mental health problems of her schoolboy son were reported in the local newspaper. (*A woman v Hastings and St Leonard's Observer: Report 41, 1998*).

However, the Commission did not believe any such constraints were appropriate when dealing with a Scottish tabloid's story of a teenager convicted of taking his father's powerful car without permission and driving it the wrong way down a one-way street in a residential area. Under Scottish law, even though the offence was committed when he was 15, the press was free to name the boy once he was 16.

His father, a prominent businessman, complained that this breached Clause 6 — which includes protection for children of the

famous — and Clause 9, which covers innocent relatives. But the PCC said the Code should not shield young people from publicity about their criminal or anti-social behaviour. It also ruled that the father was central to the story as it was his car that was used. So there was no breach of Clause 9. (*Souter and son v Scottish Sun: Report 76, 2007*).

## KEY RULINGS

- *Kenewa v Sunday Mercury* (Report 50, 2000).
- *Brecon High School v Brecon and Radnor Express* (Report 57, 2002).
- *Black v Bedfordshire on Sunday* (Report 43, 1998).
- *Gaddis v Hamilton Advertiser* (Report 75, 2007).
- *Gaddis v Scottish Daily Mirror* (Report 75, 2007).
- *Gaddis v Scottish Sun* (Report 75, 2007).
- *A couple v FHM magazine* (Report 75, 2007).
- *A woman v Kent Messenger* (Report 70, 2005).
- *Quigley v Zoo magazine* (Report 73, 2006).
- *Livesey v Accrington Observer and Times* (Report 30, 1995 — see note in margin).
- *Rowling v OK! Magazine* (Report 55, 2001).
- *Blair v Mail on Sunday* (Report 47, 1999).
- *Blair v Daily Telegraph* (Report 57, 2002).
- *Kelly v Daily Mirror* (Report 74, 2007).
- *Donald v Hello magazine* (Report 52, 2000).
- *A woman v Hastings and St Leonard's Observer* (Report 41, 1998).
- *Souter and son v Scottish Sun* (Report 76, 2007).

## KEY QUESTIONS

- **Is the child under 16 or still at school?** If so, [Clause 6](#) applies.
- **Could the interview or photograph involve or affect a child's welfare?** If so, consent will be needed.
- **Has consent been given by the appropriate responsible adult or school?**
- **Is a payment to either a child or parents/guardian in the child's interest?**
- **Is there a justification for publication other than the fame etc of parents or guardians?**
- **Is there an exceptional public interest in publication?** No such defence has yet succeeded.

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