

Patients are paramount

THE CODE SAYS...

Clause Eight — Hospitals*

- i) *Journalists must identify themselves and obtain permission from a responsible executive before entering non-public areas of hospitals or similar institutions to pursue enquiries.*
- ii) *The restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospitals or similar institutions.*

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

The Code is at its strictest when protecting vulnerable groups, and never more so than when dealing with patients in hospital or similar institutions. The clause on hospitals is rigorously enforced and the PCC has warned that it will take a harsh view of any unnecessary intrusion into the privacy of those who are ill. This tough line has resulted in very few breaches.

The requirement on journalists to identify themselves and obtain permission from a responsible executive to enter non-public areas applies to *all editorial staff, including photographers*. Both the identification and the permission need to be clearly established.

A journalist, who attended a London hospital after the Canary Wharf terrorist bomb attack, photographed an injured victim in the company of relatives who he thought had obtained permission from

hospital staff. The PCC ruled that while he acted in good faith and that coverage of a terror incident included victims, the patient's well-being was paramount. It was not enough for the journalist to assume his identity was known or to rely on the comment of an individual who was clearly not a responsible executive. The complaint was upheld. (*Hutchinson v News of the World: Report 37, 1997*).

As this clause covers the news-gathering process, a breach can occur even if nothing is published as a result.

In 2002, a reporter who went to the hospital bedside of the victim of a car accident, without identifying himself to the relevant authorities, was quickly sacked by his newspaper, which recognised that the Code had been breached. Although the editor apologised to the complainant and no story was published, the newspaper was rebuked for a serious breach of the Code. (*Jennings v Eastbourne Gazette: Report 59/60, 2002*).

Non-public areas: In most cases, what constitutes a non-public area would be clear and would certainly include areas where patients were receiving treatment. But what if the hospital itself is not open to the public?

A private hospital, which the singer Pete Doherty had been ordered by a court to attend, complained that a reporter broke the rules by going into the grounds and reporting to the reception desk, which was a non-public area.

But the PCC ruled that as the security gate was unmanned, and

BRIEFING

Detained mental health patients

The PCC has warned that terms used to describe patients detained under Mental Health Act of 1983 are frequently wrong and could breach the Code's rules on accuracy ([Clause 1](#)) or discrimination ([Clause 6](#)). In a [Guidance Note](#), the Commission issued clarifications to be borne in mind by editors when running stories about people detained under the Act:

- **They are detained in *hospitals*** — not prisons. The terms “jail”, “cell” or “cage” would be inaccurate, said the PCC.
- **Most have *not* appeared before the courts:** Eight out of ten such patients are detained because mental health professionals decided they needed hospital care.
- **Those who *are* detained following conviction** have also been found to be in need of treatment and have the same rights under the Patients' Charter as other NHS users.
- **High Security establishments** such as Rampton and Broadmoor provide care and treatment. Nurses, not prison officers, staff them. The Commission also raised concerns about terms such as “nutter” and “basket case” to describe people who are mentally ill — whether detained or not. This could create a climate of fear or rejection, and cause distress to patients and their families, by interfering with their care and treatment.

the reporter had not attempted to speak to anyone other than the receptionist, and had not concealed her identity, visiting the reception area was not a breach of the Code.

However, it noted with approval that the hospital had amended its security procedures — and that the newspaper had accepted that the preferred approach would have been by telephone. (*Croft v Daily Mail: Report 74, 2006*).

Similar institutions: The PCC has held that, in the spirit of the Code, the vulnerability of the patient or individual should be taken into account when deciding what constitutes a similar institution. When Countess Spencer was photographed at a clinic, where she was receiving treatment for health problems, it was seen as a clear breach (*Spencer v News of the World: Report 29, 1995* — see note in margin).

But the Commission has ruled that a residential home for the elderly could also be a *similar institution*, if a number of residents needed medical supervision. It urged journalists to think hard before approaching people in such establishments, especially if their state of health made them vulnerable. (*A man v Daily Mail: Report 58, 2002*).

The public interest: While newspapers should always proceed with caution, there are cases where otherwise proscribed action can be justified in the public interest. In 2001 the parents of a comatose woman brain-damaged by domestic violence desperately wanted publicity to expose what they saw as the inadequate sentence on the attacker. They invited a cameraman to accompany them on a hospital visit to photograph the pitiful plight of the victim.

The NHS Trust complained that the photographer had not sought permission from a responsible executive. However the PCC ruled that it was in the public interest that the parents should be able to demonstrate their disgust at the leniency of the sentence — and that readers might not have been able to appreciate the gravity of the

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HOSPITALS
Public interest defence

● 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

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BRIEFING

Co-operating with the PCC

There is a strong obligation on editors under the Code to co-operate swiftly with the PCC in trying to resolve complaints.

It is one of the Commission's targets to reach rulings in 35 days, and currently — with the co-operation of editors — it averages 34 days.

In practice, this means replying to the PCC's initial request for a response to the complaint within seven days and then reacting promptly to any new PCC questions or suggestions of a remedy to the dispute.

Failure to act promptly can aggravate the problem. One newspaper, which repeatedly failed to reply to a reader who complained that a table in a report on currency values was flawed, similarly lost letters from the PCC.

In view of the pattern of lapses, the case went to adjudication, where the PCC found the paper to be in breach of its obligation to co-operate swiftly with the resolution of complaints.

In other cases, newspapers and magazines — while denying a complaint — have simply failed to provide any evidence to support their case. The PCC has then upheld the complaint by default — usually taking the opportunity to remind to all editors of their responsibilities under the Code.

situation had the picture not been published. (*Taunton and Somerset NHS Trust v The Mirror: Report 54, 2001*).

The clause also requires that in making inquiries from hospitals and similar institutions editors need to be mindful of the general restrictions on privacy, which include specific reference to health matters.

KEY RULINGS

- *Hutchinson v News of the World* (Report 37, 1997).
- *Jennings v Eastbourne Gazette* (Report 59/60, 2002).
- *Spencer v News of the World* (Report 29, 1995 — see note in margin).
- *Croft v Daily Mail* (Report 74, 2006).
- *A man v Daily Mail* (Report 58, 2002).
- *Taunton and Somerset NHS Trust v The Mirror* (Report 54, 2001).

KEY QUESTIONS

- **Were editorial staff in a non-public area?**
- **Did they identify themselves to a responsible executive?** The term executive was introduced to ensure appropriate seniority.
- **Was there a public interest in publication?**

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GUIDANCE
Co-operating with the PCC

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