

Press Complaints Commission and Payment to Parents for Material about their Children - 2009

The Press Complaints Commission has issued new guidance on the issue of paying parents for material involving their children's welfare. This follows the publication of stories in February 2009 in *The Sun*, *People*, and *Sunday Mail* about the birth of a child, Maisie, to a teenage mother, Chantelle Stedman (15), along with the claims that the father of Maisie was Alfie Patten (13).

The *Sun* published interviews with, and photographs of, Alfie and Chantelle and photographs of Maisie. It also included comments from Alfie's and Chantelle's parents. The *People* (and the *Sunday Mail*) published an interview with Alfie Patten and his family, which questioned whether Alfie was indeed the father. There were allegations that the newspapers had paid the families of the children to secure these interviews.

On February 16 2009, the Press Complaints Commission announced that it would launch an investigation into whether the payments complied with Clause 6 (iv) of the Code of Practice, and undertook to make a public ruling on the matter once it had completed its inquiries.

The Commission has always considered that the protection of the Code needs to be at its strongest in cases involving children. Clause 6 (Children) has, at its heart, the protection of children's welfare. Clause 6 (iv) deals with the issue of payment to children or their parents and states:

"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 interests".

The public interest section of the Code refers to the need for editors, if the Code is breached in cases involving children under 16, to "demonstrate an exceptional public interest to override the normally paramount interests of the child".

Two days after the announcement of the PCC investigation, on February 18 2009, the High Court made a Reporting Restrictions Order which effectively precluded the publication of any new information about Chantelle, Alfie and Maisie and precluded any further approaches to their families. The Reporting Restrictions Order was extended on two subsequent occasions in April and May.

On May 18, the Court revised the Reporting Restriction Order to allow the identity of the father of Maisie to be reported following the results of a DNA test. This confirmed that Maisie's father was Tyler Barker (15) and not Alfie Patten. Mr Barker was one of the individuals who was named after the original *Sun* story as a possible father to Maisie. The other terms of the Reporting Restrictions Order continue in force until 2011.

This Order has meant that the Commission has been unable to approach the parents of the children. It has not, therefore, been possible for the Commission to undertake a comprehensive investigation, the results of which it could make public. Any published ruling by the Commission would require an analysis of issues which are intrinsically linked with the

welfare of the children, and would involve disclosures of new information which the Commission is not entitled to make. This information would include the sums and nature of any payments made; how any payments may have been used by the families; the newspapers' references to the children's welfare; and the circumstances surrounding the original mistaken identification of Alfie.

In these circumstances, the Commission has concluded that it is not able to publish a fully reasoned ruling as to whether any payments made to the parents of Alfie or Chantelle have breached Clause 6 (iv) of the Code.

Nonetheless, the issue highlighted by this case is a matter of considerable importance, and the Commission has decided to proceed with a public statement to increase awareness of the factors that it will take into account when considering whether payments to parents for material about their children breach the Code. The Commission is concerned about the possible impact of the coverage on the children, and the role of payment in that.

1. What Clause 6 (iv) of the Code requires

Clause 6 (iv) prohibits payment to parents for material about their children's welfare, unless it is clearly in the child's interests or there is an exceptional public interest. The intention of this clause is:

- to discourage parents selling a story about their child which would not otherwise be considered to be in their child's interests to publicise; and
- to discourage parents from fabricating or exaggerating information for the purposes of securing publication of a story.

The Editors' Codebook, which comments on the Commission's jurisprudence and the thinking behind the Code of Practice, says 'that a payment to an unscrupulous or greedy parent, if it were demonstrably not in the child's interest', would be a breach of the Code.

Editors should bear in mind the purpose of the Clause when deciding whether to pay someone for information involving the welfare of their child. When considering a matter which falls within Clause 6 (iv), the Commission may require a newspaper to show that additional enquiries about the veracity of a story have been made, rather than that they have simply taken the parents' word at face value. The Commission expects editors to demonstrate that they have taken great care when publishing stories of this nature.

2. The type of payment

The Code requires the payment to be in the child's interest. Editors must, therefore, be able to show how they have taken care to consider the interests of the child.

3. Conflicting rights of children and their parents

There are likely to be occasions where the right to freedom of expression of the parents will conflict with what is best for the children, in whose interest it may not be to have information about their private lives publicised. Editors will be expected at all times to put the child's interests first. They will also have to take note of the nature of the relationship between

parent and child, and whether the parent is in a position to represent positively the child's interests.

On some occasions, this will mean – where there is an insufficient public interest in the story – that payment should not be made, even if the parents are happy for the story to be published.

4. The need for an exceptional public interest

Where the story concerns the child's welfare but payment is not deemed likely to be in their interests, editors can only justify payment if they can point to an 'exceptional public interest'. It is not sufficient to rely only on the parents' rights to freedom of expression. A satisfactory explanation must be given about how the public interest had been served to an exceptional extent to override the normally paramount interest of the child.

By way of example, the Commission can point – in broad terms – to the public interest arguments in the case involving Chantelle, Alfie and Maisie. The newspapers argued that the articles involved the important issue of the prevalence, and impact, of teenage pregnancy within British society. By identifying the principals involved and presenting them in a particular way, the story dramatised and personalised these issues in a way that stimulated a wide-ranging public debate, involving contributions from senior politicians (which included the Prime Minister and Leader of the Opposition). The newspapers said that they were fulfilling an important duty in publicising to a large audience a social problem that is perceived to be widespread. Their position was that the case was, on the evidence available at the time of publication, an exceptional example of the problem.

Such arguments would have had to be weighed against the counter arguments that this example of teenage pregnancy was not so extraordinary as to warrant the coverage or to justify the probable impact on the children. Furthermore, the public interest argument had been significantly affected – in the case of The Sun – by the fact that the original identification of Alfie Patten as the father turned out to be wrong.

However, without being able to publish a fully reasoned decision covering all the relevant issues, it was not appropriate for the Commission to make a finding as to whether the newspapers, in this case, would need to rely on a public interest justification and whether or not it would succeed.

5. Future conduct of the industry

In the course of considering this matter, the Commission has reviewed recent stories in the media about children. It is clear that the practice of paying parents for interviews about their children – which might involve, for example, their family's experience of a particular illness or social situation – is not unusual. In the majority of cases, this will not involve a breach of the Code, given the nature of the material published.

But where there are doubts about the motives of the parents in seeking payment, or the possible impact on the child's welfare, editors must pause and consider what effect payment and publication will have on the child. They should also ask themselves the questions set out in this paper:

- Is the payment alone responsible for tempting parents to discuss a matter about their child that it would be against the child's interests to publicise? If so, only an exceptional public interest reason could justify proceeding with the arrangement;
- Is there any danger that the offer of payment has tempted parents to exaggerate or even fabricate the information?;
- Is the payment in the child's interest?

If editors are uncertain about these or any other questions, they should contact the PCC for advice.