

Mr Hugh Tunbridge v Dorking Advertiser

Clauses noted: 3

Mr Hugh Tunbridge of Dorking complained that an article published in the Dorking Advertiser on 22nd February headlined 'Skulduggery over a butterscotch tart' included a photograph of him without his consent in breach of Clause 4 (Harassment) of the Code of Practice.

The complaint was upheld.

The article was a review of a local restaurant and included a number of photographs of the inside of the restaurant, which the complainant contended had been taken secretly. The complainant objected to a particular photograph in which he and his dining companion were clearly visible, which had been taken and published without his knowledge or consent. Its publication, he said, demonstrated a lack of respect for both himself and his companion, as the reporter had no knowledge of their identities or the circumstances of their meeting.

The newspaper apologised for any distress that may have been caused by the piece, but did not consider that the Code had been breached. The newspaper contended that a café was a public place - as any member of the public had a right of free entry - and therefore that the complainant had no reasonable expectation of privacy. It also maintained that the photographer had used a standard camera for the pictures, which he had in no way sought to conceal. The pictures were merely illustrative of the atmosphere of the restaurant and did not seek to intrude into privacy of its clientele. However, as a matter of courtesy, it stated that in the future reporters would consult the restaurant owners after their meal and obtain permission to take illustrative pictures. The newspaper was also prepared to set the record straight for the complainant with a published item regarding the circumstances surrounding the photograph.

Adjudication

The Commission considered that, while the context of the photograph's use might appear to have been trivial, an important matter of principle was at stake. Clause 3 of the Code makes clear that private places are 'public or private property where there is a reasonable expectation of privacy' while Clause 4 adds that individuals must not be photographed in such places without their consent. The Commission has made clear before - especially in *Ryle v News of the World*, Report 53 - that there may be places such as hotels which are accessible to the public where an individual will still have a reasonable expectation of privacy. In this case the Commission considered that customers of a quiet café could expect to sit inside such an establishment without having to worry that surreptitious photographs would be taken of them and published in newspapers. There was no suggestion that the complainant was easily visible from the street and the Commission considered that all the circumstances suggested that he and his companion were clearly in a place where they had a reasonable expectation of privacy. The complaint was therefore upheld.

Adjudication issued 23/05/2002