

A man v Daily Record

Clauses noted: 3, 4, 10, 12

A man complained to the Press Complaints Commission that two articles published in the Daily Record on the 6 and 7 September 2006 headlined respectively "Ripper's sex-swap love gets job at Carstairs" and "The wife of ripper sex swap pal stands by her man" were intrusive in breach of Clause 3 (Privacy). The complainant also raised concerns under Clause 4 (Harassment), Clause 10 (Clandestine devices and subterfuge) and Clause 12 (Discrimination) of the Code of Practice.

The complaint was not upheld.

The article reported that the complainant had been suspended from his new job at the State Mental Hospital, Carstairs, after a background check revealed that – before his gender change – he had had a relationship with Peter Sutcliffe.

The complainant said that it was unnecessary for the newspaper to have disclosed his gender change in a story about his work. He said his medical history was private and should have remained so. The complainant said that the publication of his photograph, taken while he stood in his doorway, and that of his partner, as she walked their dog, also intruded into their privacy.

The complainant received two visits from the newspaper's reporters: on the first occasion, he said they told him that they were shocked by his dismissal and were on his side. Before asking them to leave, the complainant said he spoke about his previous employment but refused to confirm that he was a transsexual. On the second visit, he said one of the reporters shouted that the newspaper knew all the facts and that the story was going to be published anyway. On this occasion, he confirmed to them that he was a transsexual and that, although this was known to everyone in his home town, it was not to those new people in his life. With the intention of forcing the reporters to leave, the complainant said if they wanted to speak to him, they would have to put a cheque through his letter box.

The newspaper said that the fact that an employee of the State Mental Hospital had previously enjoyed a relationship with a mass murderer was a matter of public interest. The details of the relationship had been placed in the public domain by coverage in 1984. The considerable public interest was such that the story would have been published regardless of the transgender issue. However, in the circumstances, it would have been impossible to establish the link between the complainant and his former identity as a woman without disclosing the complainant's gender change.

The newspaper disputed the complainant's claim that one of its reporters had shouted at him on his doorstep and behaved in an aggressive manner. It seemed unlikely that the complainant would reveal that he was a transsexual, offer to speak to the newspaper for a fee and discuss his former employment if those were indeed the circumstances. The newspaper also denied that the reporters had been asked to leave by the complainant on either occasion.

Adjudication

The Commission was satisfied that there was a substantial public interest in the story that a care worker at the State Mental Hospital had been suspended after it had emerged that he had once had a relationship with Peter Sutcliffe. Given that the relationship – about which the complainant had previously spoken publicly – had taken place when the complainant was a different gender, the Commission did not consider that the newspaper could have avoided referring to his transition on this occasion.

In any case, the Commission has previously ruled that the mere fact of a person's gender change – the consequences of which are publicly apparent – does not in itself constitute intrinsically private information. There was therefore no intrusion under Clause 3 on this point. Indeed, the complainant himself noted the fact that everyone in his hometown knew he was a transsexual. In terms of Clause 12, the references to the complainant's gender status were not pejorative or prejudicial, and there was therefore no breach of Clause 12 either.

The Commission then turned to the complaint under Clause 4, which makes clear that journalists must not persist in questioning individuals after having been asked to desist, unless there is a public interest reason for doing so. There was clearly some dispute between the complainant and the newspaper over whether the reporters had been asked to leave on their first visit. However, even on the complainant's version of events, it did not appear that it had necessarily been clear during the first visit that he wished the reporters to desist from approaching him in all circumstances. The newspaper then appeared to have returned in order to put new information to the complainant. The Commission was not satisfied that this was sufficient to sustain a complaint of harassment under the terms of the Code.

Turning finally to the complaint about the photographs under Clauses 3 and 10, the Commission first made clear that its general approach is to consider whether people have a reasonable expectation of privacy when they are photographed without their consent. When there is no harassment, it normally finds no breach of the Code in cases such as this when someone is walking down the street or is standing on the threshold of their property clearly visible to passers by. In this case, the newspaper had taken photographs to illustrate a story that was in the public interest. While the Commission could understand the complainant's reservations about his and his partner's photographs being taken and published, it did not find that the newspaper's behaviour in doing so had breached the Code. In terms of Clause 10, there was no evidence that the newspaper had used a hidden camera, although this would not in any case normally be a feature in complaints about photographs taken in public places.

Relevant ruling

A woman v The People, 2003

Adjudication issued 14/12/2006