

A boy v The Sunday Times

Clauses noted: 3, 5, 6

Bindman & Partners complained to the Press Complaints Commission on behalf of a fourteen-year-old boy that an article published in *The Sunday Times* on 24 September 2006 headlined "The ultimate sacrifice" was intrusive in breach of Clauses 3 (Privacy), 5 (Intrusion into grief or shock) and 6 (Children) of the Code.

The complaint was not upheld. On one point under Clauses 3 and 6, the newspaper offered sufficient remedial action for breaches of the Code.

The article described the suicide of the complainant's father in Yarl's Wood detention centre and its effect on the complainant. It included an extract from the father's suicide note and a photograph taken from the centre's CCTV footage of him walking towards a stairwell with a bed sheet tied around his neck. A photograph of the complainant at his father's funeral was also included.

The complainant's solicitors argued that the article was unnecessarily intrusive at a time – one year on from the death – when the complainant, a highly vulnerable young man, was still deeply affected by the events detailed. The CCTV footage, played at the inquest, was described as disturbing by the Coroner, who warned individuals (including representatives of the complainant) about it in advance so that they could leave the court. The complainant was not aware of the existence of the footage until the article was published. The solicitors argued that the combination of the photograph and details of the suicide represented a breach of Clause 5 (i), which requires newspapers to handle publication sensitively, and 5 (ii) of the Code, which requires newspapers to avoid 'excessive detail' about the method used in suicide.

The solicitors said that the photograph of the complainant at his father's funeral clearly involved his welfare and was taken without his consent, in a place where he had a reasonable expectation or privacy, in breach of Clause 6 of the Code. The article also contained details of the child's private life, published only due to the 'fame, notoriety or position' of his father, in breach of Clause 6 of the Code. Finally, publishing the photographs and suicide note – which had been addressed to the complainant – interfered with his general right to privacy as he had a reasonable expectation of privacy in relation to their dissemination to an audience of millions. While the solicitors conceded that there was an obvious human (perhaps even public) interest in the story, they considered that there was no need for the complainant and his father to have been named.

The newspaper argued that there was an exceptional amount of public interest in the story. This was best summarised by one of the lawyers involved, who said: 'nothing anyone could say would more graphically illustrate the desperation felt by many asylum seekers and the sacrifice that a parent will make to secure a better future for their child'. The story revealed the circumstances that led to the unnecessary death of a good man. The article pulled together material that had already been established in the public domain, both regionally and nationally. Previous reports on the incident – in newspapers, and on the websites of the Refugee Council and the local Diocese – had included the name of the complainant's father, and the complainant's name and age.

At the time of the inquest – September 2006 – a number of articles were published, some of which were accompanied by the funeral photograph. These reports contained details revealed at the inquest, including an extract of a letter from the complainant's father, indicating a possible intention to kill himself; an extract from the suicide note; details of the method of suicide; and what the CCTV footage had revealed. Newspapers had a right, as recognised by the Code, to report on what takes place during an inquest. In this case, the details of the suicide had been revealed in court and widely reported elsewhere. Regarding the photograph taken at the funeral, the newspaper made clear that a regional newspaper had been invited to the funeral by the vicar (who was very close to the family, and – it was understood – acting with its consent) and published the photograph that

accompanied the article, without complaint. The location of the photograph was a public place (a graveyard) and the funeral itself a public event.

The newspaper also argued that no details of the complainant's private life were included in the article. Nothing was published solely because of the 'fame, notoriety or position of his father', as the complainant himself was an integral part of the tragedy. It argued that the use of pseudonyms would have weakened the story, and would have been nonsensical given the amount of material in the public domain. But the newspaper did regret the distress caused by its article, and said it would either delete the photographs or not republish them without the complainant's consent.

The complainant's solicitors denied that there was a public interest defence as outlined by the newspaper. The photographs and the suicide note were gratuitous additions to an otherwise responsible story. They did not accept that information already in the public domain – either by being revealed in court or being published elsewhere – had lost its status as private. The solicitors argued that the local authority responsible for the complainant had not given permission for the photograph at the funeral to be published. Its republication in the newspaper was all the more intrusive, as it was accompanied by the contents of the suicide note and the CCTV image.

Adjudication

Although complaints had been made under a number of different clauses of the Code, they were all rooted in the complainant's desire to protect his privacy and to restrain public scrutiny of a number of aspects of the story, in particular the picture of his father in Yarl's Wood, his own image at the funeral, and the suicide note. These were entirely understandable concerns, and the Commission naturally sympathised with his vulnerable position following the loss of his father and the other difficult circumstances with which he was faced.

The various questions for the Commission were whether the information under complaint was private; whether it was intrusive into the complainant's grief in breach of the Code; whether excessive detail had been used to describe the method of suicide used; whether the photograph of the complainant at the funeral contravened the Code, bearing in mind the special protection it gives to children; and whether information about his private life was only published because of the position of his father.

Of course, the tragic circumstances of the suicide, including the events leading to it, had been established in the public domain as a result of an open inquest hearing and had been disseminated to a wide audience by the resulting news coverage. This information included the names of the complainant and his father, and the manner in which his father had died. Newspapers are entitled to report on inquest proceedings, and this right obviously means that details of sudden or unusual deaths – which may be distressing to individuals connected with the deceased – become public and may be commented upon.

Against that background, the Commission first considered the complaint under Clause 5. This says that 'in cases involving personal grief or shock... publication must be handled sensitively', and has traditionally been taken to refer to news coverage in the immediate aftermath of a bereavement or other shocking incident. That said, given the complainant's vulnerability in this case, the Commission would not have tolerated coverage of the case that was insensitive towards him just because a year had elapsed since his father's death.

The Code's requirements on sensitive handling do not, however, provide a right to anonymity for those affected by a tragic event, particularly when they are directly relevant to an inquest hearing. The Commission realises that any coverage or publicity may be painful for relatives of the deceased – but it is a well established principle that the public has a right to be informed about proceedings at an inquest, and once details have legitimately been put into the public domain they may of course be repeated and commented upon. What the Commission had to do under Clause 5 was examine

the content of the article and consider whether it made light of the circumstances, gratuitously wallowed in the detail, or introduced private and unnecessary material about the situation into the public domain. In doing so, it seemed that – in relation to the complaint under Clause 5 – the photograph of the complainant's father and the content of his suicide note were of particular concern.

The Commission considered that there was a legitimate and significant public interest in the story. It noted that the article did not seek to sensationalise the matter or dwell on any gratuitous detail, and amounted to a thoughtful examination of the situation. The Commission understood the complainant's objections to the publication of the still image from the CCTV footage and the contents of the suicide note. However, it did not agree that the terms of Clause 5 had been breached by their inclusion. Both the note and the footage had formed part of the evidence revealed during the inquest, and, although the actual still image from the CCTV footage was new information, both items, in the Commission's opinion, were relevant in illustrating the true and desperate circumstances of the tragedy – something that justified their use. Furthermore, the content of the suicide note was something that had been widely reported by newspapers at the time of the inquest. For this combination of reasons, including such information in the article was not insensitive in the sense of Clause 5.

There were no grounds to conclude that the newspaper had failed in its duty to take care 'to avoid excessive detail about the method' when reporting the suicide, in breach of the second part of Clause 5. This section was designed to prevent the inclusion of detail in newspaper reports that might provoke 'copycat' suicides. The inclusion of a photograph of the complainant's father before his death did not raise an issue under this part of the Code.

Having considered the matter under Clause 5, the Commission then turned to the complaint under Clause 3, and in particular to the publication of the photograph of the complainant at his father's funeral. Although the photograph had apparently been published elsewhere and taken following an invitation to the funeral – by the vicar – of a regional newspaper, it emerged that there had in fact been no formal consent from a custodial representative of the complainant for its taking and use. The newspaper had not known this at the time of publication and relied on the fact that it had been published elsewhere. This limited its culpability. However, as the photograph was taken when the complainant had a reasonable expectation of privacy and involved his welfare, its publication did raise a breach of Clauses 3 and 6 of the Code. The Commission therefore welcomed the newspaper's quick expression of regret and offer not to republish the photograph without consent or delete it altogether. In the circumstances outlined above, this struck the Commission as a proportionate response and a sufficient remedy to this part of the complaint. No further action was required on this issue.

The Commission finally considered the overarching argument that the article had intruded into the complainant's privacy, and contained details of his private life, in breach of Clause 3 and 6 of the Code. For the reasons explained elsewhere in this ruling, aside from the publication of the funeral photograph, the information in the piece did not represent an intrusion into the complainant's private life in breach of Clause 3 or 6. The Commission agreed that the complainant was integral to the story and could not realistically be said only to have been referred to because of the 'fame, notoriety or position' of his father.

The Commission expressed its deepest sympathy for the complainant, who had clearly been distressed by the publication of the article and who, it appeared, was uncomfortable with the personal publicity involved in reporting the story. This was something that was greatly to be regretted.

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