

***Mr Paul Kirkland v Wiltshire Gazette & Herald***

Clauses noted: 1, 2, 3, 5

Mr Paul Kirkland of Wantage complained to the Press Complaints Commission (on behalf of the Hartley family) that an article headlined "Road closed after accident", published on the website of the Wiltshire Gazette & Herald on 13 February 2008, and an article in the Wiltshire Gazette & Herald on 14 February 2008 headlined "Driver trapped", intruded into his mother-in-law's privacy and into the shock of the family in breach of Clause 3 (Privacy) and Clause 5 (Intrusion into grief or shock) of the Code. He also raised concerns under Clause 1 (Accuracy) and Clause 2 (Opportunity to reply).

Following remedial action taken by the newspaper, no further action was required.

The complainant's elderly mother-in-law had been injured in a road accident. The newspaper's online report of the crash the same day included a photograph of the victim being treated by the emergency services, which the complainant considered to be extremely graphic.

The complainant said that the article had been published when not all members of the family had been informed of the accident or had known the extent of the injuries. Given that the article had (incorrectly) stated that the police officers "fear for her life", the newspaper's reporting of what it understood to have been a potentially fatal accident was intrusive and insensitive. While the photograph which appeared in the newspaper the following day had obscured the victim's face, the complainant maintained that it was still intrusive.

The newspaper said that the accident had occurred in the daytime on a public road and had caused long tailbacks. The images had been removed from its website as soon as a complaint from the family was received via Wiltshire Police, even though this was out-of-hours. The paper also carried a critical letter from the complainant in its next edition – which included an editorial footnote of apology – and had sent a private letter of apology to the family.

*Adjudication*

Newspapers are of course entitled to publish stories and pictures of serious road accidents, which take place in public and often have wide-reaching consequences. Nonetheless, the Code requires newspapers to handle publication sensitively and to respect the privacy and health of those involved.

On this occasion, the photograph published online (in which the complainant's face was partially visible) and, to a lesser extent, the photograph published in the next day's paper, were evidently distressing to the complainant's family. This was a matter of regret to the Commission. While the complainant's features may not have been entirely recognisable, and she was not named, the make of her car and the number plate were clear in both pictures. There was clearly a risk that the photographs would effectively have identified the woman as a crash victim to those who knew her.

The Commission was particularly concerned about publication of the online image, which had been uploaded before the condition of the victim had been established, shortly after the accident when family members may not have been informed or would have been in a state of shock. This image showed the complainant's facial features as she received emergency treatment.

There is a clear need for newspapers to exercise caution when publishing images that relate to a person's health and medical treatment, even if they are taken in public places. Rare and large-scale events such as terrorist attacks and natural disasters involve a degree of public interest so great that it may be proportionate and appropriate to show images of their aftermath without the consent of those involved.

On this occasion, the Commission considered that there was insufficient public interest in a more routine incident such as a car crash to override the rights to privacy of the victim by publishing a picture of her face and showing her receiving treatment, especially at a time when her condition was uncertain. The online publication of the image, therefore, raised a breach of the Code.

That said, the Commission also had regard for the subsequent response of the newspaper. It had apologised, promptly withdrawn the offending photograph from the website, published the family's criticisms of the paper and published an apology. Given the relatively brief period that the picture had been available online, this action was a proportionate and necessary remedy to the complaint under Clauses 3 and 5 of the Code. Had the newspaper failed to take such action, the Commission would have upheld this aspect of the complaint.

While there was a fine line to be drawn, the Commission did not consider that the photograph that appeared in the published version of the paper raised a similar breach of the Code. The complainant's features were entirely obscured and she was therefore not seen specifically receiving treatment. The Commission appreciated the family's concern at any use of a picture of the crash scene, but in terms of the Code of Practice it considered that the photograph in the newspaper was just on the right side of the line.

In considering the complaint under Clauses 1 and 2, the Commission noted that the newspaper said that the police at the scene had indicated that they were concerned that the injuries were life-threatening. It was not possible for the Commission to determine precisely what police, in the moments following the accident, had said. No representative of the police force had complained about the accuracy of the claim about their initial fears.

On that basis, the Commission did not consider that the information could be established as inaccurate insofar as it related to the apparent reaction of the police. However, given that the victim's condition was not found to be life-threatening, it was right for the newspaper to offer to publish an update on the matter, to prevent readers from being misled as to the state of her health. It therefore welcomed the newspaper's publication of a critical letter from the complainant on the subject. This action was sufficient in the circumstances to remedy the complaint under Clauses 1 and 2.

Given the action taken by the editor to remedy the complaint, and while it could appreciate the family's strength of feeling about the publication of the articles, there were no further issues for the Commission to pursue.

Adjudication issued 23/04/2008