

Phyllis Goble v The People

Clauses noted: 3

Phyllis Goble complained to the Press Complaints Commission, on behalf and with the signed authorisation of her son-in-law, John Hayter, that an article published in *The People* on 26 April 2009 headlined "My lot have murdered someone again. S*** happens" invaded Mr Hayter's privacy in breach of Clause 3 (Privacy) of the Code of Practice.

The complaint was not upheld.

The article reported that a serving police officer, John Hayter, had posted a message on Facebook about the death of Ian Tomlinson during the London G20 protest in April 2009. His message said: "I see my lot have murdered someone again. Oh well, shit happens." The complainant said that publication of this comment, along with two others from Mr Hayter's profiles on social networking sites, showed a lack of respect for his privacy. The profiles on Facebook and Friends Reunited, from which the comments were taken, were not publicly accessible. Mrs Goble also complained that the newspaper had also intruded into Mr Hayter's privacy by taking and publishing a picture of him on his private driveway, and by publishing a picture taken from his sister's Friends Reunited profile showing him in uniform.

The newspaper said that Mr Hayter's comments had been brought to its attention by a third party with whom he was acquainted. The third party had legitimate access to Mr Hayter's online profiles. In addition, Mr Hayter had accepted the newspaper's journalist as an online 'friend' for a period of around an hour, before deleting her. She also, therefore, had legitimate access to the information. The newspaper argued that it was reasonable to publish the comments in question because there was a public interest in showing how serving police officers regarded incidents such as the death of Ian Tomlinson.

In terms of the photographs, the newspaper said that the first picture was taken from a public road where Mr Hayter did not have a reasonable expectation of privacy. The other image had not been taken by the paper but been passed to it by a source whose identity could not be revealed.

Adjudication

The Commission has recently made clear that it can be acceptable in some circumstances for the press to publish information taken from social networking websites, even when the material is originally intended for a small group of acquaintances and not publicly accessible. However, this will generally be only in cases where the public interest overrides the individual's right to privacy.

The Commission was persuaded that this was such a case. The individual in question was a serving police officer, commenting on a matter that was the subject of considerable media and public scrutiny. He had done so in a way that made light of a person's death and the role apparently played by the police. There was a clear public interest in knowing about police attitudes (whether publicly or privately expressed) towards the incident. In any case, posting such controversial comments to people who were not obliged to keep the information secret was likely to involve an element of risk on Mr Hayter's part, given his job. The Commission considered that any intrusion into privacy was justified by the public interest, and there was therefore no breach of Clause 3 of the Code. Additionally, the Commission considered it reasonable for the newspaper to have published two further comments also relating to his work, since they provided additional context to his remarks about Mr Tomlinson.

Complaints about the pictures of Mr Hayter were also rejected. The main image showed him standing in his drive and was taken from a public road. He was not in a place where he had a reasonable expectation of privacy, and the picture did not show him engaged in any private activity.

The second image, which had been obtained from a confidential source, simply showed Mr Hayter in his uniform.

Mrs Goble had further complained that the material from the social networking sites had been obtained by subterfuge. However, there was no evidence that this was the case. Rather, it seemed that the newspaper had been informed about the comments by a person who had access to the material because they were acquainted with Mr Hayter. The journalist also had legitimate access to the material for a short period. There was, therefore, no issue to pursue under Clause 10 (Clandestine devices and subterfuge).

A further complaint had been made under Clause 1 (Accuracy) that the article gave a misleading impression of Mr Hayter's character. However, the story concerned his remarks on Facebook rather than his personality and life in general, and there was no reason under the Code why other information should have been included in order to present him in a more agreeable light. There was no breach of Clause 1.

Relevant rulings

Mullan, Weir & Campbell v Scottish Sunday Express, 2009
Sheridan v Scottish Sun, 2007

Adjudication issued 29/09/2009