

The mother of Hannah Sharp, on behalf of her family v Chester Chronicle

Clauses noted: 1, 3, 4, 5, 8

The mother of Hannah Sharp, on behalf of her family, complained to the Press Complaints Commission that coverage in the Chester Chronicle of an accident involving her daughter - from November 2008 to July 2009 - intruded into her daughter's private life in breach of Clause 3 (Privacy) and Clause 8 (Hospitals) of the Editors' Code of Practice. In addition, she complained that the manner of the newspaper's enquiries breached Clause 4 (Harassment) and Clause 5 (Intrusion into grief or shock) of the Code. Finally, the complainant said that the articles contained inaccuracies in breach of Clause 1 (Accuracy).

The complaint was not upheld under Clauses 3, 4, 5 or 8 of the Code. The newspaper's offer to publish an apology to the complainant was sufficient to remedy a breach of Clause 1 of the Code.

In October 2008 the complainant's daughter had been seriously injured following a road traffic accident in which the driver was killed. The incident and the aftermath were covered by the newspaper.

Adjudication

Complaint under Clause 3 (Privacy) and Clause 8 (Hospitals)

The complainant's daughter spent five months in hospital, and the complainant was concerned that the newspaper had made a number of 'condition checks' with the hospital following the accident. She said that the hospital had breached her daughter's confidentiality by releasing information about her medical condition without the family's consent.

The complainant was also concerned about the newspaper publishing private information about her daughter's health. An article of 28th January 2009, for example, had given the complainant's daughter's first name, in addition to quoting a spokesman for the hospital who said that 'the patient sustained serious head injuries and as a result will require long-term care'. By not checking explicitly that the family was happy for this information to be released by the hospital, the newspaper had failed to show respect for her daughter's privacy at a time when she was seriously ill. This also represented a breach of Clause 8 (ii).

In February 2009, the family asked Cheshire Police to make clear to the newspaper that the family did not wish for it to make further enquiries with the hospital. The hospital's Chief Executive wrote formally to the newspaper in June 2009 to ask it not to 'use our briefing on the current/future medical situation of [the complainant's daughter] in any future articles'.

In response, the newspaper said it understood that it would have been a traumatic time for the families of both young women, and it was not its intention to add to their distress. The reporter's calls to the Intensive Care Unit at the hospital were routine journalistic practice to ensure that any published information was up-to-date, and it assumed that the hospital had followed the correct procedures in releasing information, including consulting the family. The newspaper had only used the victim's first name until her surname had been revealed at the inquest, together with the name of the road where she lived.

Finding

Clause 3 of the Code states that everyone is entitled to respect for their private life, making specific reference to an individual's health. In addition, Clause 8 (ii) makes clear that 'restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospitals'.

However, newspapers are of course entitled to report on road traffic accidents and their aftermath, and in this case the incident was serious and had far-reaching consequences. Although publicity at such times can be unwelcome, the tragic accident was a newsworthy event and the newspaper was entitled to update its readers about its impact.

The Commission recognised that the family had not given consent for the hospital to release any information relating to the condition of the complainant's daughter, but this appeared to be an oversight on the part of the hospital rather than an intrusion on the part of the newspaper. The newspaper was relying on information that had been made available to it by an appropriate authority. Furthermore, the newspaper had not named the complainant's daughter until she had been identified at the inquest. In all these circumstances, the Commission did not consider that Clauses 3 or 8 had been breached.

Complaint under Clause 4 (Harassment) and Clause 5 (Intrusion into grief or shock)

The inquest into the death of the driver was held on 9 July 2009 and - given the fact that there would be press interest - the family had reluctantly released a statement, although this did not contain any undisclosed medical information. Aside from this, a representative of the family made clear orally that they did not wish to speak to the press.

Notwithstanding this request for privacy, the newspaper's reporter visited the family home on 13 July to ask for further information about the daughter's condition, and spoke to her aunt for ten minutes on the doorstep. The complainant felt that the enquiries had not been conducted with sympathy and discretion, as the reporter persisted in asking intrusive questions such as whether her daughter was conscious. He also asked whether a photograph could be provided. The newspaper had also pursued the story with the family's solicitors, repeatedly contacting them after the inquest. The solicitors confirmed that the family had nothing to add to the press statement.

The complainant added that - at the time of the accident - the reporter had approached a family friend for information and was informed that the family did not wish to be contacted.

The newspaper said that its reporter had decided against approaching the family at the time of the accident. After the inquest, he had been given the statement by the family's representative, but was certain that she did not say that an approach should not be made to the family. Given the family's comments in the statement he wondered whether the family may wish to speak further - nine months after the accident - and therefore visited the complainant's home. The aunt declined to comment on the case, and was insistent that nothing relating to the conversation should be published, which the newspaper respected. It did not agree that the reporter had acted insensitively.

The reporter only called the complainant's legal representative twice, leaving an answerphone message once.

Finding

The Commission noted that the newspaper had not approached the family at the time of the car crash in October 2008, and that the first direct approach to the family had occurred in July 2009 at the time of the inquest, when a statement was released (albeit reluctantly).

The reporter had visited the complainant's home on one occasion, some time after the accident happened. The Commission did not consider that this one visit - in the absence of any firm evidence to show that the reporter had been asked specifically not to make additional enquiries - represented harassment under the Code.

The length of time which had elapsed since the time of the accident was also relevant to the complaint under Clause 5. By the time of the approach, the complainant's daughter had been

released from hospital, and the initial state of shock following the news, which Clause 5 is designed to respect, would have passed.

For the family to be approached without warning had plainly taken them by surprise, something the Commission considered regrettable. It was not, however, possible to reconcile the two versions of events about how exactly the reporter had behaved. But it seemed to be the case that the reporter did not return to the property and did not write a story about his conversations. In these circumstances, the Commission could not rule that a breach of the Code had been established.

Complaint under Clause 1 (Accuracy)

The complainant said that a report of the inquest in Chronicle Xtra (13 July) was inaccurate when it claimed that her daughter had been left 'permanently brain-damaged'. Not only was this supposition - as the nature of brain injuries was unpredictable - but the complainant was concerned about the source of this information, given the efforts she had made to stop the newspaper from making further enquiries with the hospital. Her daughter's medical condition had not been mentioned at the inquest. This article also inaccurately described one witness as a 'neighbour and school friend' of her daughter, and said that her daughter and partner had been 'dating for about three months', rather than one.

The complainant said that a further article of 16 July was inaccurate when it stated that 'Hannah's family regard it as something of a miracle that she is still alive'. This inaccurately paraphrased the family's statement.

The newspaper was willing to publish a correction and apology in regard to the inaccuracies in the piece. The description of the injuries as 'permanent' and 'long-term' were not based on any form of family or official statement, and the newspaper accepted that the earlier hospital statement may have confirmed the position in the reporter's mind. It agreed that this was insensitive and inappropriate, and apologised to the family, offering to do so in public too.

Finding

The Commission considered that the reference to the complainant's daughter being left 'permanently brain-damaged' was clearly conjecture presented as fact, and amounted to a breach of the Code. As such, it was right for the newspaper to offer to apologise to the complainant and her family.

The combination of this and the newspaper's proposal to set out the family's position over the accuracy of what was heard at the inquest represented a sufficient form of remedial action under the terms of the Code. There were no issues for the Commission to pursue.

Relevant ruling

Kirkland v Wiltshire Gazette & Herald, 2008

Adjudication issued 21/12/2009